



PROCESSING COMPLAINTS AGAINST POLICE:
THE CIVILIAN COMPLAINT REVIEW BOARD

by

Michele Sviridoff

and

Jerome E. McElroy

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Vera Institute of Justice
377 Broadway
New York, N. Y. 10013



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Twenty-five years ago formal mechanisms for the receipt, investigation and disposition of citizen complaints about police behavior were virtually non-existent. Today it is hard to imagine how a department of any appreciable size could justify not having one. Nevertheless, it still takes dedication to the principles of responsible policing and a certain amount of political courage for a police director to look carefully at the operations and results of such a mechanism in his department. Commissioner Benjamin Ward evinced those qualities when he asked the Vera Institute to conduct this study of the New York City Police Department's Civilian Complaint Review Board (CCRB).

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Chapter I

The Objectives and Methods of the Research

A. Introduction

For many New York City residents, the Civilian Complaint Review Board (CCRB) is inextricably associated with a heated political debate of the late 60's. The central issue of that controversy was whether the Board, appointed to review and dispose complaints filed by citizens against members of the New York City Police Department (NYPD), should be composed of a mix of civilians and police department personnel or of police department personnel only.

The debate polarized the constituencies concerned with the review of civilian grievances against the police. Civil liberties groups argued that a Board controlled by police department personnel would inevitably "whitewash" complaints against the police. The Patrolman's Benevolent Association (PBA) countered that only police professionals had the expertise to determine what constituted proper and improper police behavior.

The issues raised in that debate have never disappeared. For the past twenty years, the CCRB has remained the center of repeated controversy, generally involving the composition of the Board itself -- entirely composed, from the late 60's through January, 1987, of civilian employees of the police department. In February, 1987, the Board's composition was changed to include equal representation of civilians, who have no connection to the Police Department, and civilian employees of the Department. Over the years, the CCRB has continued to be subject to charges

of bias against complainants, particularly minority citizens. Citizen advocates argued that too few complaints were ever substantiated and that the CCRB was too lenient in its response to police misbehavior.

Because the public debate has been focused on the composition of the CCRB Board itself, there has been little attention paid to the larger CCRB agency as a whole, of which the appointed review Board constitutes only a small part. The CCRB agency was established in 1966 by the Police Commissioner, under authority granted in the City Charter (section 440), to receive, investigate and hear civilian complaints against the police and to recommend disciplinary action, where appropriate. The CCRB is responsible for receiving and disposing complaints about police use of Force, Abuse of authority, Discourtesy and Ethnic slurs. These four categories, describing the CCRB's jurisdiction, are known by the acronym FADE within the agency.

The CCRB is staffed by a mix of civilian employees and police personnel. The staff of the CCRB is responsible for conducting all investigations of complaints received by the CCRB and for making dispositional recommendations to the Board. The Board is assembled to review and act on the dispositional recommendations made by CCRB staff. The CCRB staff performs the bulk of the complaint processing done by the CCRB and is solely responsible for the interactions between that agency and the public.

For several years, police department officials have been concerned about the apparently low credibility of the CCRB among

civilians. That concern was intensified by a series of events -- the 1983 congressional hearing about alleged police brutality against minority residents of New York City; several well publicized incidents alleging unnecessary or excessive use of force by police; and repeated media focus on the issues of alleged police brutality, alleged race/ethnic bias within the police department, and the plight of victims of alleged police brutality who seek redress of their grievances through the courts.

All of these events brought issues related to the CCRB back to public awareness, including the composition of the Board, the small likelihood of substantiation, and alleged bias against complainants. This happened, despite the fact that the incidents which were the focus of media attention often fell within the jurisdiction of the city's criminal courts, rather than within the province of the CCRB.

Given the renewed and recurring interest in the CCRB, Department officials felt a growing need for a dispassionate look at CCRB functions and operations. Does it operate fairly, consistently and objectively in the disposition of civilian complaints? Why are so many complaints "unsubstantiated"? Does the CCRB satisfy civilians who file complaints with the agency? If not, why not? What types of situations are most likely to generate complaints? Can the Department make better use of civilian complaints in developing training strategies for police officers? Do existing CCRB procedures, processes and structures serve the Department's objectives as well as they could?

Department officials recognized that a review of the per-

formance of the CCRB would have greater credibility if it were conducted externally. Therefore, in early 1985 the Department began exploring the possibility of having the Vera Institute of Justice carry out some research designed to address the questions listed above.

Vera began that research in the fall of 1985. This report presents the findings of the resulting quantitative and qualitative examination of certain aspects of the CCRB's operations.

B. Research Objectives and Strategies

Broadly speaking, Vera's research mandate was to study the CCRB process in order to assess its fairness and consistency and to identify ways in which it might realize the Department's objectives more effectively. The Department was primarily concerned with aspects of the dispositional process -- whether it might be biased against particular groups of complainants or officers, and why such a large proportion of investigated cases were disposed as unsubstantiated. But the Department also asked Vera for an assessment of the agency's general ability to meet the broader goals of civilian complaint review.

The civilian complaint review process can be seen as having three general goals. The first is simply to provide an accessible and credible grievance resolution mechanism, in keeping with the democratic principle that an aggrieved citizen is entitled to make a complaint against government and have it adjudicated impartially.

The second goal of a complaint review process (particularly in review boards that are linked to the police departments that

they review) is to strengthen the relationship between police and the community that they serve. This assumes that an accessible, fair and effective complaint review process will encourage the community to see the police agency as committed to public service, open to public criticism, and determined to correct itself in response to such criticism.

The third goal is to expose improper police behavior and to mete out the appropriate disciplinary response, thereby assisting the Department in controlling the behavior of its members. Civilian complaint review can lead to discipline for specific acts of improper police behavior. In addition, the information generated by investigations can be used to identify emerging patterns of wrong-doing in particular locations and situations. This information, in turn, can be used to develop training programs designed to reduce offensive police behavior and to bring about operational changes. Finally, investigative information can be used to identify "problem" officers, against whom repeated complaints are filed.

To address concerns about the thoroughness and objectivity of the complaint review process, Vera undertook an analysis of the nature of the complaints filed with the CCRB, the way in which the complaints are processed and the factors that influence case disposition.

In addition, Vera proposed addressing some broader issues related to the CCRB goals. Presumably, the ability of the CCRB process to contribute to harmonious relations between the police and the community depends, at least in part, on the nature and

degree of citizen satisfaction with their participation in the process. There was little available information on this issue. Therefore, Vera decided to conduct interviews with a sample of complainants concerning reactions to their experiences with the CCRB and to the outcomes of their complaints.

Furthermore, the influence of the CCRB on police misbehavior presumably depends on police officers' acceptance of its legitimacy, and, because its judgments can influence their careers in some important ways, belief in its fairness. These also are issues on which there is a paucity of useful empirical data. Therefore, Vera proposed to interview a sample of officers who had been the subjects of CCRB cases.

To explore all of these issues, Vera developed a three-part research strategy. The first part of the research entailed a quantitative analysis of complaint dispositions at the CCRB and of the influence of factors that may affect case disposition (complaint type, the situation in which the incident occurred, complainant characteristics, officer characteristics). The second part of the research, designed to complement the quantitative analysis, was a qualitative analysis of a subsample of complaints (approximately 150 cases), exploring the nature of complaints filed at the CCRB, the manner in which they were handled, the thoroughness of investigations, the influence of complaint seriousness and evidentiary strength on complaint processing, and other qualitative factors that influence complaint disposition. For the final part of the research, Vera proposed to select samples of complainants and police officers who had been involved

in the CCRB process, and interview them about their experiences with the CCRB, their satisfaction with the complaint resolution process, their satisfaction with the disposition of their complaints, and the officers' perceptions of the effect of CCRB involvement on their careers.

This report presents the findings of the first two components of the research, the quantitative and qualitative analyses of the complaint disposition process. A subsequent report will describe the findings of the third component of the Vera research effort, the surveys of complainants and officers.

To conduct the quantitative analysis of the complaint disposition process at the CCRB, Vera secured a copy of a CCRB data tape containing information on all complaints filed with the CCRB in 1984.¹ This tape provided information on the characteristics of complainants and victims; the nature of the alleged offense; the characteristics of the officers who were the subject of the complaint; the nature of the situation in which the police-citizen encounter occurred; and the disposition of the complaint. (Appendix A defines the variables used in the analysis.)

These data permitted description of the kinds of complaints that are filed at the CCRB and the kinds of situations in which alleged incidents arise. It also allowed analysis of relationships between complaint disposition and various factors -- the nature of the alleged misbehavior, complainant character-

¹ At the time that our research began, data about more recent complaints (for the years 1985 and 1986) were not available because data had not yet been entered on tape for a large number of cases or because cases had not yet been finally disposed.

istics, and officer characteristics -- that might affect the way in which complaints are handled.

Vera also selected a subsample of nearly 150 cases from the 1984 sample for a more in-depth, qualitative description of filed complaints and how they were reviewed, investigated and disposed. The cases in the qualitative sample were selected to represent the various dispositional alternatives possible at the CCRB (e.g., conciliated, substantiated, unsubstantiated, exonerated) for each of the FADE complaint types handled by the agency (force, abuse, discourtesy/ethnic slur). (See Appendix B for a full description of the sampling strategy employed.)

The complete CCRB case record was examined in detail for each of the sampled complaints. Information was gathered about the date of the alleged event; the date that the complaint was filed; the precinct in which the alleged incident occurred; the description of the alleged event, as recorded when the complaint was filed; the type of situation which gave rise to the alleged event; the nature of the allegations; characteristics of the complainant; characteristics of the officers against whom the complaint was filed; the prior complaint history of those officers; the record of investigative actions taken by the CCRB investigator (i.e., contact efforts, records of interviews with complainants and witnesses, records of interviews with police officers, records gathered and other information obtained); summaries of all interviews with complainants, victims, witnesses

and police officers; the dispositional recommendations of supervisors, the Deputy Director of the CCRB and the Board; the dates of those dispositional recommendations; comments recorded in case files by investigators and Board members supporting their dispositional recommendations; the type of disciplinary referral made, where appropriate; and the nature of imposed sanctions.

Together, the quantitative and qualitative data provide considerable information on the kinds of cases that enter the CCRB; the nature of allegations arising in various types of police-citizen interactions; the relationships among complaint type, underlying situation, complainant and officer characteristics and dispositional outcomes; and the process of complaint review, investigation and disposition at the CCRB.

In addition to the data in the quantitative and qualitative data sets, Vera researchers interviewed members of the CCRB staff (intake workers, investigators, team captains, staff counsel, the deputy director) to learn more about the nature of complaint processing.

The CCRB data base alone did not permit us to explore distinctions, if any, between officers who were the subject of complaints and officers who were not. Therefore, as a supplement to the quantitative data set, Vera staff gathered additional information from the Police Department's computerized management information system, about the complaints filed in 1984 against all officers. The information on all complaints filed was augmented by information on the assignments of officers as well as their ethnicity, gender and years of experience on the force.

These additional data were used to estimate the relative likelihood of a complaint being filed against officers working in different types of assignments, against officers with different demographic characteristics, and against officers with different amounts of police experience.

Finally, Vera also undertook an extensive review of the research and theoretical literature pertaining to civilian complaint review processes, to help identify relevant issues and current knowledge about complaint review procedures. The review of literature not only helped shape research questions, it also constitutes an element of the research itself, by providing information on some issues which could not be addressed empirically from the research data base Vera was able to assemble.

Together these data permit detailed descriptions of the caseload of the CCRB, complainant characteristics, and characteristics of both subject officers and officers who were not the subject of civilian complaints in 1984. They also permit a full description of the dispositional process at the CCRB, an examination of the thoroughness of that process and an analysis of the factors that influence dispositional outcomes. Together with the review of relevant literature, Vera's empirical research allows us to address both the narrow questions about how the CCRB functions and broader questions about the agency's ability to meet its general objectives.

C. Civilian Complaint Review: What the Literature Tells Us

Over the past 20 years, a growing body of literature has explored the theory and practice of civilian complaint review me-

chanisms. That literature addresses issues about the nature and extent of civilian complaints concerning police misconduct; the fairness and accessibility of civilian complaint review procedures; the usefulness of such procedures in improving police-community relations; and the usefulness of such procedures in controlling police misconduct toward citizens. In this section we review what the literature tells us in each of these areas. This review of relevant literature helps define the questions which our research can address, offers information on issues that could not be addressed by our empirical research and provides a context in which the findings of our empirical research can be placed.

During the period in which the research was carried out, increased public concern about the extent of police misconduct in New York City and State gave rise to two independent investigations which address some of the issues central to the controversy about police misconduct and complaint review. Two separate reports -- that of the Mayor's Advisory Committee on Police Management and Personnel Policy (Zuccotti, 1987) and that of the New York State Commission on Criminal Justice and the Use of Force (Curran, 1987) -- have been issued recently. Together, these reports address in a different way many of the central issues covered by our research and by the theoretical literature reviewed.

Both reports have a considerably broader focus than our analysis of the CCRB process. The Zuccotti report addresses broad police management issues, such as recruitment, selection,

supervision and training; the discussion of the CCRB constitutes a relatively small section of its review of the Department's overall management control strategies. The Curran report, in contrast, is generally focused on the issue of the police abuse of force in a statewide context. It does not deal specifically with the New York City CCRB, but rather with the complaint review process within the state as a whole.

In its review of the extent of police abuse of force statewide, the Curran report addresses several issues which were relevant to, but beyond the scope of our research on the CCRB -- the frequency with which police use force in their ordinary interactions with citizens; specific instances of police use of lethal force; citizen perceptions of the extent of police abuse; citizens' experiences of police abuse and the extent to which those experiences were reported; and specific tactics employed by officers recognized as being "good at handling conflict situations."

The general findings of the Curran Commission focus upon an apparent "chasm" between the public perception of the extent of police abuse, particularly against minorities, and the actual frequency of police use and misuse of force. The Commission has been widely reported as finding that the misuse of force by police in New York State is relatively infrequent, neither pervasive nor systemic, and not disproportionately directed against minorities, after controlling for ethnic differences in the prevalence and frequency of criminal involvement. These findings are controversial and have been broadly attacked by some citizen

advocacy groups as "laughable" and "a whitewash" (Law Enforcement News, 6/9/87.)

Nevertheless, the findings of both New York City commissions provide valuable information on issues that could not be addressed in our own research, as well as affording valuable insights into issues frequently raised in the research literature as a whole. Therefore, we have included these documents in our general review of the literature and we focus on them specifically when setting forth our recommendations regarding the complaint review process in the final chapter of this report.

1. The Nature and Extent of Police Misconduct

None of the data collected and analyzed in the course of Vera's research permit us to estimate the extent of police abuse of citizens in the City. It is likely that some civilians do not file complaints with the CCRB, following encounters which the citizens believe give them cause to complain. Furthermore, some of the most serious allegations of police abuse are handled by the courts, not the CCRB. (The jurisdiction of the CCRB is discussed in more detail in Chapter II). Given these facts, and the unfounded nature of some filed complaints, it is possible that the incidents that result in CCRB complaints are only weakly representative of the incidence and nature of police misbehavior in New York City.

The findings of a survey of citizens, funded by the Curran Commission, shed some light on this issue. Winick (1987) found that a relatively small proportion of citizens surveyed (5%) reported that anyone in their family had experienced apparent po-

lice abuse in the past five years; that a somewhat greater proportion (17%) had witnessed an incident they thought involved apparent police abuse in that time; that blacks were more likely to experience or witness alleged police abuse than other groups; that many of those who reported that they had either experienced or witnessed police abuse (63%) did not complain about the incident; that many (59%) were not aware of procedures for complaining about police abuse; that those who claimed awareness of such procedures did not often identify civilian review boards as an available procedure (15% statewide); but that the majority of citizens (63%) believed existing procedures for complaining about police abuse were effective.

These findings suggest that many potential complaints about police abuse go unreported, that many citizens are unaware of the existence of civilian complaint review procedures, but that the majority of citizens believe that the mechanisms for reviewing complaints about police abuse are adequate, whatever they may be.

The Curran Commission also funded two additional research efforts which provide information on the frequency and extent of police abuse in New York State -- a study, done in New York City, that observed both "typical officers" and officers judged by their peers as being "good at handling conflict situations" to measure the frequency of police use of force during regular patrol tours (Bayley and Garofalo, 1987); and a study of the frequency of incidents in which police used force against citizens, using data from New York State jurisdictions which required that police officers provide full documentation for all such incidents

(Croft and Austin, 1987). These studies both suggested that incidents in which police use force (rightly or wrongly) are far less frequent than critics believe and constitute a relatively small proportion of police-citizen interactions.

The literature as a whole tells us relatively little locally or nationally about the characteristics of filed complaints and the types of situations in which complaints arise. In our research, detailed quantitative and qualitative analysis of the CCRB caseload provides considerable information about complaint characteristics and the types of encounters which frequently give rise to civilian complaints. Our research reveals that the majority of civilian complaints involve less serious allegations than the public believes, and that relatively few complaints involve allegations of serious force and/or serious injury to complainants.

2. The Accessibility and Fairness of Civilian Complaint Review Procedures

The literature on civilian complaint review processes provides relatively little descriptive information on the operations and procedures of the complaint review process. Although the Winick study, discussed above, suggests that many citizens are unaware of complaint review procedures, there is little information about the accessibility of review agencies for those who attempt to file complaints.

Nor is there detailed information on the dispositional alternatives afforded by the complaint review process, on the factors that influence dispositional outcomes or on the ways in

which complaint review agencies focus resources on various types of complaints. Our research, in contrast, provides detailed information on the workings of the CCRB -- the degree of thoroughness in investigative efforts, the extent of "triage" in handling the workload, and the factors that influence dispositional outcomes.

The existing literature is heavily focused on structural issues. Much of the debate about the fairness of civilian complaint review agencies echoes the original debate about the CCRB. It focuses on the locus of control (civilian or departmental) over the complaint review process.

A few commentators on civilian review echo the public debate by challenging the integrity of the review process in agencies that are internally controlled. One recent article contends that:

So long as the police themselves gather, assemble, interpret and then judge the facts related to misconduct complaints, few serious complaints are likely to be sustained. As evidence gatherers and assemblers, the police will act as a fraternal brotherhood, protecting their own whenever possible against negative feedback (Schwartz, 1985: 133).

Yet most of the empirical research finds that procedures are fair and objective, even in agencies staffed by police personnel (Chevigny, 1968; Curran, 1987; Gelhorn, 1966; Kerstetter, 1985; Zuccotti, 1987.) These conclusions are consistent with our finding that the CCRB is thorough and fair in investigating and disposing of the complaints brought before it. Such findings contrast sharply with the contention, sometimes applied to the CCRB, that internal review is inherently unfair to complainants.

Commentators also note, however, that internally controlled agencies have little credibility with the public. They suggest that no matter how fair the review process is, the "suspicion of whitewash" in the community will be ineradicable.

Kerstetter distinguishes between "internal" review boards (those staffed and controlled by police personnel) and "external" boards (those staffed and controlled by civilians).² Contrary to popular belief, he reports that "internal" civilian review agencies generally have higher levels of substantiation (finding complaints to be substantive) than "external" boards (those staffed and controlled by civilians):

...civilian review is less likely than police internal review to find officers guilty of misconduct and is more lenient in its disciplinary recommendations when it does find them guilty (Kerstetter, 1985: 162).

Kerstetter attributes this difference to the greater investigative abilities and powers of the "internal" process -- the availability of trained investigative staff, the ability to subpoena, access to police personnel files, and the greater cooperation of the police department. Even so, he found that civilian complainants were more likely to be satisfied with "external" review, despite a decreased likelihood that their complaints would be substantiated.

In delineating the conflict between the more thorough inves-

² Kerstetter also refers to "hybrid" agencies in which "internal" and "external" attributes are mixed. Clearly, there are distinctions to be made among: complaint review agencies with (1) some civilian staff members, but no other civilians; (2) some civilian staff and some civilian Board members, but departmental control; and (3) a completely civilian staff and completely civilian Board, which exercises full control.

tigative powers of internal review and the inherently greater credibility of external review, Kerstetter recommends the development of "hybrid" civilian complaint review agencies, which review civilian complaints internally but expose that review to external or civilian oversight. This combination of structures, he argues, would combine the benefits of both thorough investigation and credibility with the public.

Vera's research provides little information on the structural issue, narrowly conceived. It does, however, present a detailed analysis of the CCRB process which permits some assessment of the fairness of that process and an examination of the role played by the often-criticized CCRB Board.

In addition to finding the investigative and dispositional processes to be fair and thorough, our research suggests that the CCRB was already a "hybrid" mechanism even before the 1987 changes in the Board's composition. Its staff was composed of both civilian and police personnel, it was housed separately from any existing police facility and the Board was composed of civilian employees of the Police Department.

3. Improving Police-Community Relations

Although most agree that one of the goals of civilian complaint review is to improve police-community relations, some commentators have questioned the relative importance of that goal.

The issue...is whether the function of a civilian review is to satisfy a civilian with a complaint or to as-

sist the police department in monitoring the behavior of its men (Hudson, 1971: 431)

In fact, much of the literature suggests that civilian complaint review offers little satisfaction to complainants. This contention is partly related to Kerstetter's claim that "internal" complaint review structures inherently lack credibility to the public.

Several commentators also point to aspects of the complaint review process that fail to promote citizen satisfaction. Goldstein (1986) reports that complainants are required to cooperate in a process in which they may feel accused themselves if conflicting testimony arises. He argues that complainants should not have their veracity challenged in the investigative process, that they should be routinely informed of the progress of their complaints, and that the disposition of their complaints should be rapid.

Others point to the inadequacy of the communications between complaint review agencies and complainants as a cause of complainant dissatisfaction. Chevigny (1968) pointed to the relatively cursory dispositional letter sent to complainants as "the chief procedural failing of the New York Board" in the 1960's (p. 81). He complained that there was no information about the reason for the dispositional decision supplied in the letter sent to complainants. Curran (1987) also calls for improved reporting to complainants of the status and outcomes of their complaints.

Others relate the lack of complainant satisfaction to the relatively low likelihood of substantiation which is character-

istic of both "internal" and "external" boards. Several commentators reported that many complaints involve police behavior that was justified, although it may have angered citizens; such complaints were intrinsically unlikely to be substantiated (Black, 1976; Goldstein, 1967). They report that clear evidence that an officer exceeded his authority has been found in only a small proportion of filed complaints. They argue that many complaints are intrinsically unfit for substantiation and, therefore, many complainants will not be satisfied with dispositional outcomes.

Several commentators also argue that review boards are hampered by their emphasis on "either-or, guilty-not guilty" adjudication (Kerstetter, 1985). In an early study of review procedures, Gelhorn (1966) suggested that the existing outcomes were fair and consistent and appropriate, given the adversarial nature of the review. Yet he also reported that adversarial procedures yielded few positive results, either in terms of complainant satisfaction or police behavior. His analysis is frequently cited by others (Goldstein, 1986; Kerstetter, 1985) in a call for the greater use of conciliation and mediation techniques and improved officer training. Goldstein suggests that many minor disputes could be settled satisfactorily with a letter of apology.

Recommendations for increasing the extent of informal complaint resolution through conciliation and mediation techniques are based on the argument that many filed complaints are unfit for full investigation, as well as the argument that informal resolution might be more satisfactory to complainants.

Although no one suggests that complaint review boards should completely abandon adversarial proceedings, many contend that review boards need to develop better methods of interacting with citizens and to expand the use of informal complaint resolution procedures if they wish to satisfy complainants. Yet these arguments are generally not based on explorations of what satisfactions complainants seek when they file complaints alleging police misconduct.

It is possible that complainant motivations and desires vary according to the type of misconduct alleged, the strength of the evidentiary support for their complaint, and/or the characteristics of complainants. Some complainants may seek serious sanction of the officer; others might be satisfied with an apology; others may want little more than the official recording of their allegations.

The third stage of Vera's research is exploring this issue and examining the extent of complainants satisfaction with various types of dispositional outcome. The first two stages of Vera's research, reported here, provide little empirical evidence on the extent of complainant satisfaction with the complaint review process or the influence of that process on police-community relations. Vera's examination of the dispositional alternatives provided by the CCRB, however, does raise questions about the nature and extent of the informal complaint resolution process at the CCRB and the extent to which that process, as performed in 1984, might prove satisfactory to complainants.

4. Controlling Officer Misconduct toward Citizens

The research literature raises general questions about the extent to which complaint review processes can contribute to a police agency's efforts to control police misbehavior. That contribution is seen as inherently limited by the reactive character of complaint review (Goldstein, 1986; Lenzi, 1974).

In addition, the ability of complaint review processes to affect officer behavior is constrained by the relatively low likelihood that complaints will be substantiated and lead to sanctions being imposed on officers.

Some research found that review boards were more successful in reaching definitive disposition in complaints that involved a "violation of trivial or obscure administrative regulations" (Goldstein, 1986: 269) than in complaints that questioned the appropriateness of the use of force or authority in situations calling for the judicious use of police discretion (Bittner, 1983). The frequent inability of complaint review boards to resolve such questions definitively contributes to the relatively low number of substantiated complaints.

Bittner (1986) attributes the greater ability of complaint review processes to resolve questions about the violation of law and regulation to an excessive focus on "legality" at the expense of "workmanship". He argues that it is more important to encourage skilled, professional behavior in police-citizen interactions than to punish violations of departmental rules.

The perceived limitations of complaint review in controlling police misbehavior may also depend on how the etiology of such behavior is understood. Carter (1986) suggests that there are

three approaches to this question. The individual approach sees police abuse as the product of a few "bad apples", who repeatedly use excessive force or abuse the rights of citizens, often in spite of police norms that discourage such behavior. To the extent that this is so, a complaint review process can contribute to the social control function by identifying and responding to "bad apples" and by deterring others from abusive behavior.

A "situational" approach sees abuse of authority as the inevitable by-product of particular types of stressful police-citizen encounters (Carter, 1986.) Within this perspective, the sanctioning practices of complaint review procedures are less important to the social control objective than the capacity of complaint review to identify and analyze such situations. This permits the department to specify preferred non-abusive responses to situations that frequently generate complaints. These identified responses can become a part of the officer's regular operating procedures through training and counselling.

Finally, an organizational or systemic approach views a potential for abuse as inherent in the very nature of policing -- the discretion required of individual officers in order-maintenance situations, the entitlement to use force to effect arrests and to control disturbances, the insensitivity that develops from dealing routinely with crisis, and the absence of adequate guidelines for controlling police behavior (Goldstein, 1986; Kerstetter, 1985.)

Some research suggests that the unnecessary or excessive use of force may be supported by police culture and may, therefore,

be difficult to affect by complaint review processes:

...police, if they are to succeed in their role, unavoidably encounter...the "paradox of face" ("the nastier one's reputation, the less nasty one has to be"). Trying to deal with the "paradox of face" substantially motivates much of what is often alleged to be police misconduct and contributes to the difficulties in making a retrospective judgement about the questioned conduct (Kerstetter, 1985: 150).

To the extent that "systemic" causes underlie alleged misconduct, control of police behavior depends largely on the agency's effectiveness in deepening police acceptance of the philosophical and legal values that direct and constrain law enforcement in a democratic society and of the importance of those values in the social and cultural context of the communities in which they work. Complaint review mechanisms can contribute to that broad objective by selectively and symbolically reminding police personnel of the content and importance of those values.

Yet other approaches may have greater influence. To reduce cultural supports for misbehavior, Goldstein (1967, 1986) argues that line commanders need to instill "guiding values" in police officers. He suggests that "structured discretion" is called for in many situations. He calls for efforts to "change the subculture", although he recognizes that it is likely to resist change. He also suggests that data drawn from civilian complaints may be useful in shaping curricula for officer training, to demonstrate that police professionals need to be "cool and dispassionate" in hostile confrontations.

Goldstein also contrasts supervisory responses to the kinds of abuses which are dealt with by complaint review boards with

the supervisory response to other forms of police misbehavior.

A police chief, regardless of the size of his agency, tends to feel personally embarrassed when an officer is found to be sleeping on duty, when he is found to be in the company of known criminals, or when he is found to have accepted a bribe. In well-run police agencies, departmental supervisors themselves take the initiative in ferreting out such violations and are willing to initiate disciplinary action. This attitude is in sharp contrast to the lack of concern commonly displayed with regard to the alleged abuse of police authority (Goldstein, 1967:162.)

A call for "line accountability" in response to police misbehavior permeates the civilian complaint review literature (Bittner, 1983; Broadway, 1974; Curran, 1987; Gelhorn, 1966; Goldstein, 1986). Commentators argue that superior officers must not tolerate offensive conduct. Unless such behavior is condemned by supervisors, they contend, case-by-case review of civilian complaints can have little influence on how officers behave on the streets.

The recent New York experience with efforts to implement "line accountability" in response to civilian complaints points to the difficulties of implementing such an approach, and merits a digression here. That experience demonstrates a potential conflict between the "due process" objectives of complaint review and the "social control" objectives of the process.

In 1984, the CCRB proposed establishing a list of officers who had received numerous complaints, and reporting officers on that list to superior officers for training and intensive monitoring. The PBA objected strenuously to this use of the data and secured a temporary restraining order to halt it. The union argued that information on complaints that were unsubstantiated

should not be given to line commanders, lest they be "considered in the evaluation of police officers by their superiors with respect to promotions and job assignments" (Brief for petitioner, Phil Caruso, president of the PBA, 5/30/84). The PBA argued that the proposed "frequent abuser" list would affect a police officer's evaluation negatively, cause irreparable harm to his/her career, and have a "chilling and intimidating effect" on the performance of official duties.

Although, on appeal, the CCRB won the right to inform line supervisors of unsubstantiated complaints, the procedures for doing so were ultimately modified. Currently, line commanders are informed of all complaints filed against officers in their command, along with the history of prior complaints filed against those officers. Supervisors are explicitly instructed to use information on complaints for purposes of notification and training, not discipline. Supervisors are also held accountable for any significant increase in the number of complaints filed against officers in their command in a given month. These procedures correspond to the demand in the theoretical literature for greater "line accountability". Yet they could not be implemented without careful consideration of the impact of new procedures on police officers themselves.

The response to the Department's effort to employ CCRB data in the attempt to establish line accountability for civilian complaints illustrates one aspect of the CCRB's functioning that has been addressed infrequently in the literature -- the dual constituency of civilian complaint review. Complaint review mechan-

isms must be responsive to the criticisms of a police constituency as well as a civilian constituency. Police representatives appear to be more concerned with protecting officers by ensuring due process protections in complaint resolution proceedings than they are in maximizing departmental control efforts.

Some argue, therefore, that the adversarial approach of review boards should be restricted to the most serious complaints:

While an adversary process has value in protection of employee rights in a termination proceeding involving serious misconduct or situations where previous corrective steps have had no positive results on behavior, the adversary format has little corrective potential for effectively dealing with police misconduct (Broadway, 1974: 211).

The first two stages of Vera's empirical research on the CCRB process provide little direct information about the agency's contribution to the control of officer behavior. Yet the research does provide information about the relative infrequency with which complaints are substantiated and disciplinary sanctions recommended in the CCRB process. This research can also contribute to our understanding of the etiology of civilian complaints by exploring the relative frequency of complaints involving "bad apples", complaint-prone situation types and complaints that appear to spring from the nature of policing itself. Such information has direct bearing on the potential usefulness of alternative methods of controlling police behavior.

D. Conclusion

Much of the literature on civilian complaint review presents findings which contrast sharply with the argument presented in

the public debate. The public debate centers primarily on structural issues -- the fairness and consistency of the investigative and adversarial processes, as they are conducted by "internal" complaint review boards. The research literature, in contrast, generally acknowledges the fairness and consistency of these processes in boards controlled internally, but points to the inherent limitations of the adversarial approach either to satisfy complainants or to control police behavior.

Our research is not centrally concerned with the relative strengths of "internal" and "external" complaint review structures. Instead, it is designed to illuminate what the CCRB does -- the kinds of cases it deals with and how it investigates, adjudicates and disposes of them. This first report provides extensive information on the kinds of complaints filed with the CCRB and the type of police behavior about which citizens complain. It also permits analysis of what officer characteristics are associated with the likelihood of having complaints filed, the relationship between officer characteristics and the type of complaints filed, and the relationship between complainant characteristics and the type of complaint filed. Finally, it affords a detailed description of the CCRB dispositional process and an analysis of the factors that influence the extent and outcomes of investigation.

This first report presents the findings of Vera's quantitative and qualitative research on the CCRB process. Chapter II describes the structure and proceeding of the CCRB, and reviews the various dispositional outcomes available to the agency.

Chapter III presents quantitative and qualitative descriptions of the types of complaints that are handled by the CCRB and the kinds of situations in which they arise. Chapter IV describes the CCRB caseload in quantitative terms and analyzes the disposition of CCRB cases in relation to the seriousness of allegations, the nature of the situation in which the alleged incident occurred, characteristics of complainants and characteristics of officers; it also reviews supplementary data on officers against whom complaints were filed in the context of the NYPD as a whole. Chapter V examines the early stages of the CCRB dispositional process by reviewing complaints in the qualitative sample that either "dropped out" before they were fully investigated or were closed as conciliated. Chapter VI focuses on the later stages of the CCRB dispositional process by reviewing complaints in the qualitative sample that were fully investigated. Finally, Chapter VII reviews the findings of this first stage of Vera's research on the CCRB in relation to broader issues, raised in the review of relevant literature, concerning the general objectives of the civilian complaint review process.

Chapter II

The Structure and Process of the CCRB

The CCRB is responsible for the investigation and disposition of civilian complaints against members of the New York City Police Department that involve unnecessary or excessive use of force, abuse of authority, discourtesy and ethnic slurs (the FADE categories described in Chapter I). In cases in which there is a finding of misconduct, the CCRB is also responsible for making a disciplinary referral of the complaint; the CCRB does not itself impose punishment when misconduct is found.

In recent years, there have been a number of changes in the definition of the jurisdiction of the CCRB (the types of complaints that the agency handles directly) and in the procedures for accepting, reviewing and investigating the complaints that are within the agency's jurisdiction. This chapter describes the structure and process of the CCRB and the changes that have affected the caseload of the agency and its processing of that caseload during the study period.

A. Recent Changes in Structure and Operations

Before describing in detail the functioning of the CCRB during the sample period, it is valuable to present a brief review of the changes which have affected the CCRB both before and since the study was begun. Many of these changes were in response to increased public attention to issues central to the CCRB, following a series of highly publicized incidents involving allegations that the police used unnecessary force. A subsequent 1983 congressional investigation into alleged systemic police brutality against minorities in New York City created further impetus for reform.

This brief review shows the major points of transition in the functioning of the CCRB in the past few years. It is presented here to provide an historical orientation to the structure and procedural transformations occurring at the CCRB during and following the period from which our study data were collected.

The study samples are comprised entirely of cases initiated in 1984. As indicated below, a number of procedural changes were introduced in that time.

- o In early 1984, the caseload of the CCRB was expanded to include relatively minor discourtesy complaints, which had previously been handled by the Chief of the Department. This led to a major increase in the number of complaints accepted and processed by the agency.
- o In early 1984, in response to citizen concern about the processing of complaints by police intake staff, the intake office was re-staffed by civilians who had received detailed training in intake procedures.
- o In 1984, the CCRB office began to remain open seven days a week, around the clock. This permitted complaints to be filed with the CCRB intake staff at any time. It also permitted a full-time investigative staff to conduct preliminary on-scene investigation of serious complaints at any time.
- o In 1984, a Major Case Team was created to focus on the most serious, complex or politically sensitive complaints. The team was staffed by experienced investigators whose caseloads were limited to permit intensive, detailed investigations of complaints which merited such attention.
- o At the end of 1984, a special Conciliation Unit was established to conduct systematic informal case resolution. The unit, staffed by high-ranking civilian employees of the CCRB, took responsibility for a conciliation function that had previously been performed by a combination of police intake personnel (now replaced by civilians) and staff investigative teams. The unit was developed in part to counteract a suspected "high pressure sales pitch for conciliation" on the part of overworked investi-

gators, following the expansion of the CCRB caseload.

- o Since its inception, the CCRB has been housed in separate offices in downtown Manhattan. In 1985, it established additional satellite offices in each borough. These offices are manned one day per week, to permit investigative interviews to be held at a location that might be more convenient for complainants and witnesses.
- o In July 1985, following a scandal concerning police use of a "stun gun" against suspected drug traffickers in Queens, the Police Commissioner ruled that all force complaints entering the CCRB would be referred initially to the Internal Affairs Division (IAD) for review and possible investigation. Currently, IAD retains only the most serious force complaints for investigation and disposition; the rest are reviewed by IAD and returned to the CCRB for processing. IAD reviews completed investigations of force complaints.
- o In October 1985, the least serious abuse and discourtesy complaints were again referred to the Chief of the Department as a means of reducing the burgeoning CCRB caseload.
- o In February 1986, the CCRB began reporting to precinct commanders both the number of complaints per month within a particular command, the substance of particular complaints filed in that month against specific officers within the command and the complaint histories of those officers. Line commanders became responsible for any increase in the number of annual complaints within their command. The practice of informing supervisors of complaints against particular officers at the time of filing was designed to improve the Department's ability to identify and monitor officers who may have problems interacting with the public. Commanding officers are now required to meet with each officer against whom a complaint has been filed and review CCRB procedures.
- o A 1986 amendment of the City Charter provides that the Board of the CCRB will be composed of six public members, appointed by the mayor with the advice and consent of the City Council, and six members appointed by the Police Commissioner. It also stipulates that panels of the Board, designated to recommend action on civilian complaints, shall consist of

no less than three Board members, including at least one public representative. No panel is to be composed entirely of public members. Before this amendment was enacted, the City Charter did not specify how many Board members were required to reach decisions in investigated complaints.

Some of the changes described above had an influence on the CCRB caseload -- the types of complaints that the CCRB keeps within its jurisdiction and the types of complaints that are referred out for handling elsewhere. Others affected the way in which complaints were processed -- the civilianization of the intake and conciliation units, the creation of the Major Case Team. Most of the changes were designed to increase the credibility of the CCRB with the public and to improve its capacity to perform thorough, unbiased investigations.

As a group, these changes led to a major increase in the CCRB staff. The number of civilians on staff increased from 34 in 1983 to 57 in 1984. In addition to the staffs of the intake unit and the Conciliation Unit, civilian employees of the Police Department served in the positions of Executive Director, Deputy Director, and staff attorney, as well as in a number of administrative and clerical positions.¹ Total uniform personnel in-

¹The CCRB distinguishes between civilian and uniform personnel, rather than between sworn and non-sworn employees, as in some other jurisdictions. In New York City, some civilian employees of the Police Department are sworn, but are not members of the "uniformed" force (i.e., they are not members of the service.) This terminology can be confusing because some members of the "uniformed" force are not required to wear uniforms (i.e., detectives, plain-clothes officers.) In this document, using the terminology employed by the CCRB, the term "civilian employee" refers to employees of the Police Department who are not members of the service (i.e., not police officers.) The term "uniform personnel" refers to members of the service of varying ranks.

creased from 55 to 67 in the same period. Well over half of the uniform personnel (40) were of the rank of Sergeant or higher. Uniform personnel were assigned to the investigative borough teams and to the Major Case Unit.

In our review of the structure and process of the CCRB below, we describe the agency as it functioned in 1984, when several of these changes were put into effect. Where appropriate, we indicate how particular procedures or structures were changed since 1984.

B. The CCRB Caseload

Complaints enter the CCRB in a variety of ways. In 1984, many (48%) were called in directly to the CCRB central office. (Intake workers record on tape all complaints that are phoned in directly to the CCRB.) Another large group (51%) were filed at local precincts, either in person or by phone. The rest were registered with various city officials and agencies (the Mayor's office, the Police Commissioner) by letter or by phone and then passed on to the CCRB.

The intake unit at the CCRB determines which complaints fall within the jurisdiction of the agency and which complaints belong elsewhere. All decisions made by intake workers are reviewed by an intake supervisor. (See Figure 1, for a flow chart depicting this process.) To fall within the CCRB's jurisdiction, a complaint must contain an allegation of either force, abuse,

discourtesy or ethnic slur against a member of the NYPD. Complaints about other city workers and police from other jurisdictions are not accepted; complainants are told to lodge complaints with the appropriate agency. If the complaint involves a member of another New York City law enforcement agency (Transit, Corrections, Housing, Port Authority) it does not fall within the jurisdiction of the CCRB. The CCRB takes such complaints, records them, sends a letter of receipt to complainants and refers the complaints to the appropriate law enforcement branch. (There are separate complaint review mechanisms for transit police, housing police and correctional officers.)

Although the jurisdiction of the CCRB encompasses FADE complaints, any complaint containing allegations of corruption automatically falls within the jurisdiction of the IAD, even if it also involves FADE allegations. Since July 1985, the IAD also has initial jurisdiction over all force complaints; nevertheless, force complaints continue to be counted as part of the CCRB caseload, even when the investigation is conducted by the IAD². Complaints alleging procedural flaws or other forms of misconduct that are not within the jurisdiction of either the CCRB or the IAD (slow response time, sleeping on the job) are referred to the Chief of the Department. Minor discourtesy and abuse complaints were defined as part of the CCRB's jurisdiction during our study

² In 1985, 13 percent of force cases reviewed by IAD were investigated by either IAD or Field Internal Affairs Units (FIAU's, the decentralized investigating arm of the IAD.) The rest (87%) were returned to the CCRB for processing.

period, but the least serious of these complaints were returned to the jurisdiction of the Chief of the Department in late October, 1985.³

Some cases that fall within the jurisdiction of the CCRB may be serious enough to be referred to the District Attorney for review, to determine whether criminal charges should be lodged against the subject officer. Investigators can recommend such referrals at any point, subject to supervisory approval. The decision to refer a case to the District Attorney may be made shortly after the case enters the CCRB, or later, if new evidence suggests that such a referral would be appropriate. Such a referral remains a CCRB case until the District Attorney has acted. In most cases, District Attorneys will decline to prosecute and return the complaint for processing at the CCRB. If the case is prosecuted and remains within the District Attorney's jurisdiction the CCRB suspends its processing until the prosecutorial review is finished. However, it reserves the right to

³ Decisions concerning which complaints fall within the jurisdiction of the CCRB are generally made by the Deputy Commissioner (i.e., the Executive Director) and the Commanding Officer (i.e., the chief of investigations) of the CCRB, subject to the review of the Police Commissioner. The recent change in jurisdiction over minor discourtesy complaints, for example, was made following the appointment of a new Commanding Officer. The referral of force complaints to the IAD, on the other hand, was ordered directly by the Police Commissioner.

The Executive Director and the Commanding Officer of the CCRB are also responsible for decisions regarding the structure and operations of the CCRB, again subject to the review of the Police Commissioner. The Board has the authority to make recommendations to the Executive Director, or directly to the Police Commissioner, concerning the CCRB's structure and operations, but has no direct responsibility for the operations of the agency.

consider the complaint whatever the result of prosecution. In some instances, however, the case may be held in the District Attorney's office for some time. The CCRB has 18 months to act after a complaint is filed; if a case is held more than 18 months by the District Attorney's office and not prosecuted, it cannot re-enter the CCRB's jurisdiction.⁴

If a complaint falls within the jurisdiction of the CCRB, it is given a complaint number at intake and accepted for processing. Subsequent case processing entails a series of decisions about how best to handle a complaint -- formally, through investigation, or informally, through conciliation. At the close of each day, complaints are reviewed by captains of the investigative teams for each borough. There are five borough teams and, since 1984, a citywide Major Case Team, responsible for the investigation of CCRB complaints. Borough team captains either keep an individual case within their unit or assign it to the appropriate citywide unit (Major Case or Conciliation).

During most of 1984, the CCRB operated without a separate Conciliation Unit. Before intake was staffed by civilians, "early conciliation" could be offered to complainants by police intake personnel. In most cases, however, conciliation offers were made by investigators, subject to the review and approval of their supervisors. After the civilianization of intake, only in-

⁴ The 18 month statute of limitations does not apply to criminal activity. Theoretically, when prosecutors return a five-year old complaint, it may still be administratively prosecuted, if it involves assault, for example.

investigators could make conciliation offers. In most of 1984, there was no preliminary higher-level screening to determine which cases were appropriate for conciliation.

After the Conciliation Unit was established, the decision on the appropriateness of conciliation became a part of the case processing decision made about each complaint -- i.e., which team or unit would handle a specific case. Under current procedures, cases are assigned to borough captains at the end of each day. The borough captain can refer a case to either the Major Case Team or the Conciliation Unit, or keep it in his own team for investigation. Investigators can no longer offer conciliation once the case has been assigned to them. Conciliation offers can be made by the Conciliation Unit only. That unit refers complaints back to borough teams if the complaint is judged inappropriate for conciliation by the Conciliation Unit or if the complainant refuses to conciliate.

C. The Process of Complaint Resolution

The processing of complaints at the CCRB permits both informal and formal complaint resolution. Cases may be disposed without formal investigation through conciliation or disposed after a full investigation. However, many complaints are resolved by neither of these methods, but are closed by the CCRB administratively, without investigation or dispute resolution. In most such cases, investigations are closed because complainants or victims do not participate in the investigative pro-

cess. In a substantial number of other cases, investigations are closed because complaints are formally withdrawn. Thus, the complaint resolution process at the CCRB may be characterized, in a somewhat oversimplified fashion, as having three general outcomes -- "drop out" (investigations closed without resolution), resolution by conciliation, and resolution following full investigation. (See Figure 1, for a flow chart depicting the case disposition process.)

All telephone contact attempts, telephone interviews and person-to-person interviews with complainants, victims, witnesses and subject officers are recorded on tape by the CCRB. These tape recordings are maintained as an adjunct to case files and serve to document the investigative effort made in each case.

1. Complaints that Drop Out: Closed Investigations

The first outcome includes all those complaints in which the investigation is closed without producing a formal disposition. Typically, these cases drop out of the process because of complainant/victim non-participation or other evidentiary weakness. These cases are called "closed investigations" by CCRB staff.

After the initial filing of a complaint, the complainant in most cases must participate in a separate investigative interview (face-to-face, if possible) to document his allegations. Investigations at the CCRB are officially closed without disposition when complaints are formally withdrawn by complainants; when complainants or victims do not cooperate in the investigative pro-

cess; when complainants or victims are not available to participate in that process (this category includes cases in which intake staff have received or recorded incomplete or inaccurate identifying information); or when the officer who is the subject of the complaint (known as the "subject officer") can not be identified by the CCRB. Although all complaints that drop out fit into one of these categories, the CCRB occasionally proceeds further with some complaints in which complainants are not cooperative if the evidence permits (there may be other parties involved in the complaint who do participate).

The CCRB's major effort in cases closed without formal disposition consists of the attempts to contact complainants either by case investigators or members of the Conciliation Unit. The CCRB staff send both registered and unregistered letters to the complainant, asking the complainant to contact an identified CCRB staff member. They also make direct phone calls to complainants at home or at work, if phone numbers are available. In many instances the complainant cannot be reached or, if reached, decides not to participate further in the dispositional process. Thus, these complaints "drop out" of the investigative process.

"Drop out" is possible no matter where the case is assigned for processing. If assigned to either the Conciliation Unit or the Major Case Team, complaints may also be closed without investigation, if the complainant can not be contacted or does not participate further.

2. Conciliated Complaints

The second general outcome is conciliation. Not all cases are deemed appropriate for an offer of conciliation. Complaints are judged appropriate for conciliation if they meet all of the following criteria: there appears to be insufficient evidence in the case to permit definitive disposition (particularly if there are no witnesses); the complaint is not particularly serious; and the subject officer does not have an lengthy history of prior complaints.

The establishment of the Conciliation Unit did not affect the expressed criteria by which a case was judged appropriate for conciliation.⁵ According to CCRB administrative staff, that unit was established because they believed that conciliation was being used too often as a means of quickly resolving cases, in some instances inappropriately. Before the Conciliation Unit was established, conciliation offers were made by case investigators. During the early months of 1984, before the civilianization of intake, non-civilian intake officers might propose "Early Conciliation" to complainants in appropriate cases.

Both before and after the Conciliation Unit was established, if a complaint was judged appropriate for conciliation, a conciliation offer was made to the complainant. The complainant was told that there did not appear to be enough evidence to substantiate his complaint, but that, if the complainant agreed, the complaint could be resolved informally through conciliation.

⁵ The Conciliation Unit was established by the authority of the Executive Director with the approval of the Police Commissioner.

Complainants were also told that, if they agreed to conciliation, the subject officer would be called into the CCRB and interviewed in a non-disciplinary meeting.⁶ At that meeting the incident would be discussed, the officer would present his version of what occurred, and the interviewer (a Police Captain on the CCRB staff) would present a hypothetical situation that corresponded to the complainant's allegations and instruct the officer in appropriate conduct. If the complainant did not agree to conciliation, his complaint would be investigated and formally disposed.

The establishment of the Conciliation Unit did not greatly affect the overall procedures for offering and conducting conciliation. It did, however, change the locus of decision-making concerning whether conciliation would be offered. Currently, investigators do not have the discretion to offer conciliation when they judge it appropriate. Instead, borough team captains decide which cases are appropriate for referral to the Conciliation Unit and which are not. The staff of the Conciliation Unit, in turn,

⁶ Conciliation, as performed by the CCRB, does not involve any contact between the complainant and the subject officer. The term "conciliation" in this context is something of a misnomer, in that no agreement between disputing parties is achieved and nothing is reconciled.

There are other idiosyncracies, unique to the CCRB's conciliation process, as well. Conciliation offers can be made in complaints in which the complainant is cooperative but the subject officer cannot be identified. In such cases (Conciliated with Unknown Department Employee), the conciliation process involves little more than the complainant's agreement to resolve the complaint informally. This disposition was available throughout the study period, but infrequently used.

refers those complaints in which conciliation is refused, or which the unit does not see as appropriate for conciliation, back to investigative teams.⁷

The establishment of the Conciliation Unit may also have affected the amount of information provided complainants when they were offered conciliation. Conciliation Unit staff (high-ranking civilian employees of the CCRB) are instructed to explain carefully what the conciliation process entails, to counteract the presumed "sales pitch" for conciliation.

If the complainant agrees to conciliation, an appointment is made through the subject officer's command, for him or her to appear at the CCRB. Usually, this is the first official notice the officer receives from CCRB that a complaint has been filed against him. He is told to report for a conciliation interview and to bring memo books that cover the date on which the alleged incident occurred. The subject officer does not have the right to refuse conciliation and is not represented by counsel or by the PBA in conciliation interviews. In contrast to investigative procedures, conciliation is defined as a non-adversarial process; it does not involve judgments concerning the truth of complainants' allegations or the accounts of subject officers, as do investigated complaints.

According to a member of the Conciliation Unit, the conciliation process performs a valuable triage function at the

⁷ In 1985, 530 cases were deemed "unsuitable for conciliation" by the Conciliation Unit, in most cases because complainants refused to accept conciliation.

CCRB, by reducing the number of cases which require full investigation. It provides a means of reaching disposition rapidly in cases which are relatively non-serious and which are not likely to reach definitive disposition.

3. Investigated Complaints

Complaints reach full investigation, if there is a participating complainant, if they are judged inappropriate for conciliation, or if conciliation is offered and refused. Investigated complaints are divided into discrete allegations, each of which is separately disposed.

There are four possible dispositional outcomes in investigated cases -- allegations may be unfounded, exonerated, substantiated and unsubstantiated. The first two dispositional alternatives favor the subject officer: an allegation is disposed as unfounded, if it is ruled that the alleged incident did not occur; an allegation is disposed as exonerated, if it is ruled that the alleged incident occurred, but was justified and proper. Substantiated allegations are disposed in favor of the complainant; the disposition indicates that the alleged incident occurred and was improper. An allegation is disposed as unsubstantiated (a disposition favoring neither the complainant nor the subject officer) if it is found that there is not enough evidence to determine either whether the alleged incident occurred or, if it did, whether it was proper or improper.

In addition to these dispositional categories, investigation may reveal that the incident involved other misconduct on the part of the subject officer, which was not alleged specifically

by the complainant and may not in fact fall within the CCRB's jurisdiction. In these cases, there is a finding of "other misconduct noted."

Investigated cases are handled by six investigative teams -- five borough teams and the Major Case Unit. Each team is composed of uniform personnel, headed by a supervisor with the rank of Captain. The Major Case Unit handles the most serious and/or most complicated cases -- those that may require more intensive investigation and interviews with multiple witnesses. Although the task of investigating a given case may be more or less complex, the investigative role is basically the same for all investigative teams.

The role of the investigator is to gather and assess all relevant evidence. This involves contacting and interviewing complainants, victims and witnesses; conducting canvasses for additional witnesses, if appropriate; getting photographs of injured victims, if appropriate; identifying subject officers; photo arrays of possible subject officers; reviewing prior complaint records of subject officers and complainants; gathering relevant official records (arrest records, activity reports, medical records, etc.); interviewing witness officers; and interviewing the subject officer. All interviews are tape-recorded and maintained to document the summaries of those interviews entered by the investigator in the case file.

In most investigated cases, face-to-face interviews are conducted with complainants and additional victims and/or witnesses. Interviews of complainants, victims and witnesses are generally

held at the central CCRB office. Since 1985, the CCRB has also developed the capacity to hold investigative interviews at satellite offices on an assigned week-day in each borough. (There is a satellite office in uptown Manhattan, in addition to the downtown central CCRB office). In some cases, interviewers travel to the homes of complainants or victims to conduct interviews, although the practice is infrequent. At times, investigators conduct telephone interviews, if face-to-face interviews prove difficult to arrange.

The interview of the subject officer represents the last stage of the investigative process. That interview cannot be conducted until all other evidence is gathered and a determination is made that there is no possibility of criminal prosecution. At that point, an appointment is scheduled with the subject officer for an investigative interview. The officer is told to bring relevant memo books and informed that he/she is entitled to be represented by the PBA or a private attorney.

In that interview, the officer is "given his rights" under departmental procedure PG 118-119 of the Patrol Guide (formerly GO-15). Under this procedure the officer is assured that his statement will not be used against him in criminal prosecution, but informed that his participation in the investigatory process of the CCRB is required. The officer is subject to charges of insubordination if he does not answer questions narrowly and specifically related to his duties. These "rights" serve to define the CCRB investigative procedure as an administrative process, rather than a criminal one.

In investigated cases, the standard of proof employed by the CCRB is one appropriate to an administrative procedure -- the "preponderance of evidence" -- rather than, as in a criminal proceeding, "beyond a reasonable doubt." Before making a dispositional recommendation, investigators prepare a separate review of evidence bearing on each allegation in the complaint. Complaints may involve multiple allegations in each FADE category. Evidence reflecting the specific involvement of each subject officer named in the complaint is considered separately as a distinct allegation. The investigator recommends a separate disposition based on the preponderance of evidence for each allegation in the case.

The CCRB does not itself impose punishments on subject officers, but makes a recommended disciplinary referral under the authority of the Police Commissioner. If any allegation is substantiated, or if other misconduct is noted, the investigator recommends an appropriate disciplinary referral as part of the recommended disposition.

Disciplinary referrals include "instructions," "command discipline," or the lodging of "charges and specifications." If the officer is referred to "instructions," his commanding officer instructs the officer on appropriate police procedures. If he is referred to "command discipline," his commanding officer imposes a sanction no more severe than the loss of five vacation days. If "charges and specifications" are lodged, the officer goes to departmental trial. If the officer is convicted at departmental trial, he/she is subject to sanctions ranging from the loss of a few vacation days up to dismissal.

Any officer referred to command discipline has the right to request a departmental trial to clear his/her name. A more stringent standard of proof is employed at departmental trial, closer to that employed in Criminal Court ("beyond a reasonable doubt"). If the complaint does proceed to departmental trial, it is prosecuted by the Department Advocate; the officer is entitled to representation by either a PBA attorney or a private attorney. In cases proceeding to departmental trial, the cooperation of the complainant may again be required. Referrals to departmental trial, the findings of departmental trials, and sanctions imposed following conviction at departmental trial are all subject to the approval of the Police Commissioner.

D. Post-Investigative Procedures: The CCRB Review Process

1. The Stages of Review

Investigative staff propose a dispositional recommendation for each CCRB case -- those that drop out⁸, those that are conciliated, and those that are investigated. If any allegation is substantiated or if other misconduct is noted, the investigator must recommend a disciplinary referral.

Yet no case is finally disposed, and no disciplinary referral takes effect, until a complaint has passed a series of separate review procedures. The case file must be reviewed first by the unit or team supervisor; then by the Complaint Supervisor (the Commanding Officer of the CCRB or his delegate); then by the

⁸ As discussed above, complaints that "drop out" are variously disposed as "withdrawn," "investigation closed - complainant uncooperative," "investigation closed - complainant unavailable," etc.

Deputy Director of the CCRB; and, finally, by the Board itself.

A case may be referred back for more work at any of these review points. Cases that drop out may be targeted for further contact efforts. Conciliated cases may be turned back for investigation. Further investigation may be deemed necessary in an investigated case.

It is also possible for the recommended disposition to be altered at any stage of higher level review. A recommendation of unsubstantiation may be changed to a disposition of substantiation. A recommendation of substantiation and command discipline may be raised to "charges and specifications." The vote of the Board itself determines the final disposition in investigated cases.

During the study period, the Board consisted of eight members, each of whom was a high-ranking civilian employee of the Police Department. Since that time, the City Council has voted to expand the membership of the Board to include 12 members -- six "public members," appointed by the Mayor, and six civilian departmental employees, appointed by the Police Commissioner.

During the study period, cases that dropped out and conciliated cases were subject to panel, rather than full board review. Each board member constituted a "panel", designated to review a number of uninvestigated cases each month. All investigated cases, however, were disposed in monthly meetings of subgroups of board members.

In 1984, the year in which our sample cases were filed, the number of board members needed to constitute such a group was three. This number has been reduced over recent years as the caseload expanded. At some point in 1985, because of the growing backlog of cases, all cases, except the most serious investigated complaints, became subject to panel review by a single member. The recent statute (2/22/87), providing for the expansion and further civilianization of the CCRB board, requires that panels acting on behalf of the Board in reviewing investigated cases consist of at least three members.

Board members have the right to request a full Board review in any case. If that happens, the case will be referred to the entire Board.

2. Variations in Routine Procedure

In almost all cases, CCRB investigative procedures preclude face-to-face contact between complainants and subject officers, or cross examination by representatives of either party. There is currently a procedure at the CCRB permitting formal hearings to be held in particularly sensitive cases (i.e., cases involving prominent persons or cases that become the focus of media attention.) In such hearings, both the complainant and the subject officer are present, and both are represented by counsel. The complainant is represented by the CCRB staff attorney unless a private attorney is involved in the case; the subject officer is represented by either a PBA attorney or a private attorney. The hearing is conducted by a hearing officer who is a high-ranking civilian manager of the CCRB (either the deputy director or the

Executive Director.) Counsel for both complainants and officers direct questions to the hearing officer, who has absolute discretion in determining which questions will be addressed in turn to victims, witnesses and subject officers.

The process of conducting hearings in individual cases is far more elaborate and time-consuming than normal investigative procedure. It is thus not surprising that the CCRB holds few hearings (two in 1984).

It is also possible for complaints to be investigated without the cooperation of the complainant. This can be done if there is additional evidence that might lead to definitive determination, apart from the testimony of the complainant. The CCRB accepts anonymous complaints as a matter of course, although there is rarely enough evidence to permit a definitive determination.

In some cases, complaints can be expunged from the subject officer's record. Expunging of files is done as a routine administrative procedure in cases in which the police officer has been identified incorrectly in the original complaint and in those in which additional officers, who proved not to have been involved in the incident, were identified in the original complaint.

The expunging of files in some unfounded cases is less routine. It is done on a case-by-case basis. The CCRB's working policy for investigative staff permits expunging of records in cases disposed as unfounded if the officer had no involvement in the alleged encounter or if the complainant has little credibility and is classified as a "chronic" complainer. Al-

though investigators may recommend that files be expunged when all the allegations in a complaint are deemed unfounded, such recommendations are subject to the approval of the Board. CCRB staff report that, when an alleged encounter did in fact occur, even if the alleged misconduct did not happen, a record of the complaint generally remains on the subject officer's record. This rule of thumb explains why exonerated complaints (those in which the incident happened but alleged behavior was not improper) are not typically subject to being expunged from officers' records.

3. Reporting Procedures

After a final disposition is determined by the Board, complainants are routinely informed of the disposition of their case by means of a standardized letter. They are not told of the specific dispositions accorded each particular allegation, but instead are told of the highest level disposition reached (substantiated, partially substantiated, exonerated, partially exonerated, unfounded, unsubstantiated). Separate form letters are sent to complainants who withdraw, "drop out" or accept conciliation. If complainants have any questions about the disposition of their complaint, they may be referred to the staff counsel of the CCRB (such referrals are relatively infrequent).

If a complaint is partially or wholly substantiated, the complainant is also informed of the nature of the disciplinary referral made (instructions, command discipline or departmental trial). When "charges and specifications" are lodged, the complainant is also informed that he may be contacted by the Depart-

ment Advocate for further testimony. Because the CCRB itself does not determine what specific disciplinary actions will be taken following command discipline or departmental trial, it does not provide information to complainants about them.

Subject officers are informed by letter of the outcomes of investigated complaints. During the study period, however, letters were not sent to officers involved in complaints that were closed without investigation. Prior to the recent change in procedure, whereby commanding officers are told when complaints are filed against officers in their precinct, there was no official notification to the subject officer, or to his/her supervisor, that a complaint had been filed, if that complaint "dropped out" of the CCRB process. Nevertheless, the fact that such complaints were filed and closed without investigation was entered on the officer's record of CCRB complaints and remained there.

E. The Effects of Changes in the CCRB Process

The changes in the procedures of the CCRB outlined in the first section of this chapter directly affected the structure and procedures of the CCRB during and following the period from which our samples were drawn. The quantitative and qualitative sample were drawn from a period (1984) in which the jurisdiction of the CCRB was broadly defined to include even relatively minor discourtesy complaints. The Conciliation Unit did not begin operations until the last few months of the 1984 sample period.

Based on data from the 1984 and 1985 CCRB annual reports, it would appear that recent structural changes had a major impact on the pattern of dispositions at the CCRB. In both years, reports

were issued at a time when a roughly similar proportion of cases remained open (1984: 17%; 1985, 22%). Although the case disposition process was not complete in some cases, it is reasonable to assume that the cases that remained open in these years were similar in type (i.e., mostly investigated cases, which take a relatively long time to reach disposition). The dispositional patterns for completed cases, as reflected in the Annual Reports, differ dramatically. Conciliations dropped from 42 percent of disposed cases in 1984 to 14 percent of disposed cases in 1985. Cases closed without investigation (i.e., "drop outs") increased from 39 percent in 1984 to 56 percent in 1985. Unsubstantiated complaints increased from ten percent of disposed cases in 1984 to 19 percent of disposed cases in 1985. However, the proportion of cases fully investigated and disposed as substantiated, unfounded, or exonerated was not greatly affected by the changes in procedure.

Both the year-long operation of the Conciliation Unit and the elimination of some discourtesy and abuse complaints for the last few months of 1985 probably account for the marked reduction in the number of conciliated complaints between 1984 and 1985. Yet the referral of minor discourtesy cases to the Chief of the Department did not occur until late in 1985. Although such cases are often conciliated, the number of 1985 discourtesy complaints was not greatly reduced by this decision.

The major factors accounting for the reduced number of conciliated complaints appear to be the changed screening procedures for determining when conciliation offers are made and the changed

procedures for explaining conciliation to complainants. Not only was a high-pressure "sales pitch" for conciliation discouraged by the creation of the Conciliation Unit, but also the opportunity to offer conciliation as a disposition of "last resort" was taken away from investigators.

It is difficult to determine whether the reduction in conciliations resulted from the stricter screening process for conciliated cases, from the increased rejection of conciliation by complainants to whom it was offered, or from both. It appears, however, that the reduced proportion of conciliated cases is directly related to the increased proportion of "drop out" and unsubstantiated complaints in 1985. It is likely that many cases that were conciliated in 1984 would have either dropped out or been disposed as unsubstantiated if they had not been conciliated.

The effect of the establishment of the Conciliation Unit -- the reduced extent of conciliation -- runs counter to the recommendation of the research literature for increased reliance on non-adversarial resolution of civilian complaints. Although the Conciliation Unit was designed to be more complainant-oriented than previous procedures, the resulting reduction in the extent of conciliation serves to increase the proportion of complaints that fail to reach definitive disposition. Such outcomes may be intrinsically unsatisfactory to complainants.

The quantitative and qualitative research described in this report is not designed to explore the extent of complainant satisfaction with various dispositional outcomes. Yet it can ex-

amine the way in which conciliation was employed by investigators in 1984, before the Conciliation Unit was established. In so doing, the research can explore the types of complaints that were chosen for conciliation; whether there were evident screening criteria for conciliation offers; and how frequently conciliation offers appeared to be inappropriate.

In the review of the structure and process of the CCRB in the chapters to follow, we need to remain aware of these procedural changes. It is possible that some complaints that were conciliated in 1984 would not have been conciliated in 1985. It is important to remember that the dispositional process described in the following chapters differs in some respects from the process of the CCRB today.

Chapter III

Types of Civilian Complaints

What do citizens complain about when they lodge complaints that enter the CCRB caseload? How serious are typical alleged offenses? What kinds of situations generate complaints? Do some types of situations appear to be unusually likely to produce particular kinds of complaints?

This chapter is primarily descriptive. It examines cases that are reviewed and disposed by the CCRB using data from the 1984 CCRB data tape and from the qualitative sample of 1984 cases, drawn from that tape. It looks at the content of the complaints themselves, apart from the dispositional process of the CCRB. This description of the CCRB caseload helps reveal aspects of police behavior that antagonize citizens.

The 1984 CCRB data tape provides considerable information on the number and type of allegations contained in complaints filed at the CCRB (i.e., the FADE categories discussed previously); the most serious type of force and of abuse alleged in each complaint; the nature of police enforcement (traffic summons, disorderly conduct, etc.), if any, associated with the alleged encounter; the type of injury, if any, alleged in force complaints; and the type of situation in which the alleged police-citizen encounter arose. These data not only demonstrate the relative frequency of different types of complaints, they also permit exploration of the relationship between underlying situations and the types of allegations that arise in those situations.

Review of qualitative data helps illustrate the types of behavior encompassed by the various categories employed by the CCRB (force, abuse, and discourtesy allegations; traffic, crime report and dispute situations.) Qualitative data provide a richer description than the CCRB data tape of the kinds of incidents alleged, of the relative seriousness of alleged misconduct, of typical situations in which alleged misconduct takes place, and of various complaint characteristics that are not included in the quantitative data base.

This chapter first examines the distributions of various types of complaints and allegations within the quantitative data base. It then turns to the qualitative sample to enrich our understanding of those complaint types.

A. Types of Civilian Complaints: Quantitative Data

1. The FADE Categories: Types of Alleged Misconduct

In 1984, 6,698 civilian complaints, containing over 10,000 separate allegations of force, abuse, discourtesy and ethnic slur were registered with the CCRB. Because in many cases data on complaint disposition and/or complaint type was either missing or internally inconsistent, we excluded a number of complaints from the 1984 tape. For purposes of analysis, we defined a CCRB complaint as one in which there was complete information on complaint type and complaint disposition. This left us with 5,641 complaints (84% of complaints filed in 1984) in the Vera data set.

Complaints filed at the CCRB often contain more than one allegation either of different types (e.g., a force allegation and a discourtesy allegation) or of the same type (e.g., multiple allegations of force). In 1984, the CCRB coding format permitted maintaining records on only one allegation of a particular FADE type in a given complaint -- i.e., a maximum of four allegations per complaint. Our data set contained 8,913 allegations (or 1.6 allegations per complaint) -- 3,044 force allegations (34%), 2,904 abuse allegations (33%), 2,765 discourtesy allegations (31%) and 200 ethnic slur allegations (2%).

For purposes of analysis, we categorized a complaint by the most serious FADE allegation contained in that complaint. Based on this method of categorization, our sample contains 3,044 force complaints (54%), 1,559 abuse complaints (28%) and 1,014 discourtesy complaints (18%) and 24 ethnic slur complaints. Because so few complaints contained ethnic slur allegations alone, we combined the discourtesy and ethnic slur complaints in all complaint-based analyses.

The most serious force and abuse allegations in CCRB complaints are classified at intake and reclassified by investigators when they learn more about the complainants' version of the alleged incident. In the 1984 data base, many investigative classifications differed from the initial intake classification. Yet not all allegations were reclassified by investigators, because many complaints dropped out before investigation. Therefore, we used the investigative classification of allegations, if

it had been entered, and the intake classification of allegations, if there had been no investigative classification.

A large group of force allegations (900, 31%) involved the least serious force category -- a push or shove. More serious force allegations were somewhat less frequent (punch, kick; 26%; stick, club; 13%.) A total of twelve per cent of the force allegations (362) involved misuse of a service revolver; the majority of these alleged that the officer's gun had been out of its holster (144, 5%) or pointed (167, 6%), rather than used as a club (38, 1%) or fired (13, less than 1%). A considerable number of force allegations in our data set were categorized as "other" (560, 19%).

A large number of abuse allegations in our 1984 data set were also classified as "other" (37%, 1019). Abuse allegations that were more definitively categorized involved alleged improper enforcement (arrests, 20%, 540; summonses, 22%, 595); alleged wrongful search (search of persons, 9%, 254; search of premises, 5%, 133; search of vehicles, 2%, 56); allegedly improper seizure of property (3%, 87); and allegedly wrongful threats of force or enforcement (1%, 35.)

In 1984, the CCRB did not gather and code information on the type of discourtesy alleged in particular complaints. They did, however, record the ethnicity involved in alleged ethnic slurs. Nearly two-thirds of the alleged ethnic slurs involved blacks (65%); another 13% involved Hispanics; the rest involved either

Jews (6%), asians (1%), or others of unspecified ethnic origin (15%).

In almost a third of the force allegations (968, 32%), some injury was reported at intake. Many injuries were classified as "other" (194, 20% of injuries) or "unspecified" (264, 27%) at intake. Many other reported injuries were relatively mild (bruise, 311; 32%; minor lacerations, 98; 10%.) Several alleged force incidents involved serious injuries, requiring medical treatment. There were 44 reported lacerations requiring stitches (4%), 43 reported bone fractures (4%), 19 reported internal injuries (2%), and five reported gun shot wounds (1%).

Among all complaints filed with the CCRB in 1984, only a quarter of the injuries reported at intake (27%) were documented by investigation. This is partly because some force complaints involving reports of injury dropped out of the CCRB process before they could be investigated. In investigated complaints in which there are documented injuries, the CCRB must first determine whether the incident actually involved unnecessary or excessive use of force; if it did, the CCRB must then determine whether or not the documented injury was, in fact, the direct result of the police-citizen encounter.

Almost half of the complaints in our data set (44%, 2501) were associated with some form of enforcement. Force complaints were significantly more likely to be associated with enforcement (48%, 1470) than either abuse complaints (44%, 682) or dis-

courtesy/ethnic slur complaints (34%, 349) ($X^2=57.72$, $DF=3$, $p<.001$).

In over half of the complaints in which there was some form of enforcement the enforcement activity involved was relatively minor -- summonsable traffic violations (43%, 1068) or other, non-penal law summonsable violations (10%, 239). In another quarter of the complaints in which there was enforcement activity (23%, 570), complainants were charged with a distinct group of penal law offenses (disorderly conduct, 14%, 356; resisting arrest, 5%, 137; harassment, 1%, 27; obstructing governmental activity, 2%, 50) which, some researchers believe, are regularly invoked as "cover charges" for police abuse of power:

The charges of disorderly conduct, resisting arrest and assault became a familiar refrain...in cases of false arrest and brutality. They are the standard "cover charges" for such abuses...Police abuses do not usually occur without criminal charges to cover them, and nothing can be done about abuses unless something is done about the cover charges. (Chevigny, 1969: 25.)

In another quarter of the complaints in which enforcement occurred (25%, 624), arrests were made on a variety of unspecified criminal charges.

Table 3.1 shows the way in which various kinds of enforcement were distributed within different types of CCRB complaints. Among complaints in which there was some enforcement, traffic summonses constituted the majority of enforcement actions in discourtesy complaints (86%) and in abuse complaints (69%), but accounted for only a fifth of the enforcement actions in force com-

plaints (20%). Force complaints in which enforcement occurred, on the other hand, contained a greater proportion of potential "cover charges" (34%) than either abuse or discourtesy complaints (9% and 5%, respectively.) Force complaints associated with enforcement also contained a greater proportion of arrest charges for "other" criminal offenses than other complaints in which enforcement was involved (force: 36%; abuse: 11%; discourtesy: 4%).

Table 3.1

Type of Enforcement by Complaint Type
(Complaints Associated with Enforcement Only)

<u>Type of Enforcement</u>	<u>Complaint Type</u>			<u>All Complaints</u>
	<u>Force</u>	<u>Abuse</u>	<u>Discourtesy/ Ethnic Slur</u>	
Traffic Summons	20% (294)	69% (473)	86% (301)	43% (1068)
Other Summons	10 (148)	11 (77)	4 (14)	10 (239)
Possible "Cover Charges"	34 (493)	9 (58)	5 (19)	23 (570)
Criminal Arrest	36 (535)	11 (74)	4 (15)	25 (624)
Total	100% (1470)	100% (682)	100% (349)	100% (2501)
			No enforcement	(3140)
			Total	(5641)

$\chi^2=828.69$, $df=6$, $p<.001$.

2. Situations in which Complaints Arise

The police-citizen encounters that gave rise to CCRB complaints occurred in a wide variety of situations. Traffic situations gave rise to more complaints in the 1984 data set than any other situation type (29%, 1606.) Other frequent situation types that gave rise to a large number of complaints were crime report (19%, 1070), dispute (18%, 1024), and patrol situations (16%, 903). Complaints also arose in a variety of situations (demonstrations, calls for service, arrest/det, aiding emotionally disturbed persons, aiding citizens who were not emotionally disturbed, station house incidents) which did not account for a large number of complaints independently. For analytic purposes, we have classified these situations as "other". Together, these other situations accounted for 17 per cent (938) of the complaints in the 1984 data set.

Table 3.2 shows that the distribution of the types of complaints that arose in traffic situations differs from the distribution of complaints that arose in other situations. Traffic situations were far less likely to generate complaints containing allegations of force (36%) than any other complaint type ("other", 55%; dispute, 60%; patrol, 62%, crime report, 68%.) Traffic situations, in contrast to all other complaint-generating situations, gave rise to a disproportionate amount of the abuse and discourtesy complaints that entered the CCRB. The distributions of complaints arising in other situations did not differ greatly from each other.

Table 3.2

Complaint Type by Situation

<u>Complaint Type</u>	<u>Situation</u>					<u>Total</u>
	<u>Traffic</u>	<u>Crime Report</u>	<u>Dispute</u>	<u>Patrol</u>	<u>Other</u>	
Force	36% (578)	68% (727)	60% (618)	62% (558)	55% (519)	54% (3000)
Abuse	38 (605)	22 (232)	22 (224)	27 (243)	23 (214)	27 (1520)
Discourtesy/ Ethnic Slur	26 (423)	10 (111)	18 (182)	11 (100)	22 (205)	13 (1081)
Total	100% (1606)	100% (1070)	100% (1024)	100% (903)	100% (938)	99% 5541
				Missing		100
				Total		5641

$$X^2=370.74, df=8, p>.001$$

The type of force allegations contained in force complaints also varied by situation. Table 3.3 shows that force allegations involving the use of a gun were more likely in crime report (20%) and traffic situations (16%) than in "other" (8%) and "patrol" situations (5%). The mildest force allegations (push/shove) were less likely in crime report situations (22%) than in any other situations (approximately a third of all other situations). On the whole, complaints arising in crime report situations appeared to generate a greater proportion of serious force allegations

(gun complaints; punch/kick/club/stick complaints) than any other situation type.

Table 3.3

Type of Force Allegation by Situation

<u>Type of Force</u>	<u>Situation</u>					<u>All Situations</u>
	<u>Crime Report</u>	<u>Traffic</u>	<u>Patrol</u>	<u>Dispute</u>	<u>Other</u>	
Any gun allegation	20% (139)	16% (88)	10% (54)	5% (33)	8% (40)	12% (354)
Punch/kick/club/stick	45 (322)	31 (170)	37 (200)	40 (243)	36 (182)	38 (1117)
Push/shove	22 (155)	32 (175)	32 (171)	36 (219)	33 (166)	30 (886)
Other	13 (94)	21 (118)	21 (115)	18 (108)	23 (115)	19 (550)
Total	100% (710)	100% (551)	100% (540)	99% (603)	100% (503)	99% (2907)
			Missing			397
			Total force allegations			3304

$\chi^2=134.50$, $df=12$, $P>.001$

Crime report situations gave rise to both the highest proportion of force complaints in general and the highest proportion of serious force allegations of any situation type. These data seem to suggest that serious force has a relatively high likelihood of arising in encounters between police and criminal suspects. The relationship invokes anecdotes of "backroom justice"

(abuse of force to coerce confessions) and of ad hoc "street justice" (abuse of force to gain swifter and surer punishment than the courts permit.)

Yet the data may be misleading. We need to review crime report complaints in the qualitative sample to determine if the alleged victims of force in such complaints were, in fact, criminal suspects. The quantitative data set alone tells us relatively little about the nature of the police-citizen contacts in which various types of complaints ("crime report force", "patrol abuse") arose.

The distribution of abuse allegations also varied according to the type of situation in which the alleged encounter took place. Table 3.4 shows that traffic situations were far more likely to give rise to allegations of abuse of enforcement powers (64%) than other situations (approximately a third of all other situations). Crime report and patrol situations, on the other hand, were considerably more likely to lead to allegations of wrongful search (31% and 26%, respectively) than other situation types (traffic, 7%; dispute, 8%; other, 17%.)

Table 3.4
Type of Abuse Allegation by Situation

<u>Type of Abuse Allegation</u>	<u>Situation</u>					<u>Total</u>
	<u>Traffic</u>	<u>Crime Report</u>	<u>Dispute</u>	<u>Patrol</u>	<u>Other</u>	
Abuse of Enforcement Powers	64% (554)	33% (176)	30% (124)	30% (130)	33% (127)	42% (1114)
Wrongful Search	7 (58)	31 (163)	8 (32)	26 (114)	17 (68)	16 (432)
Wrongful Seizure of Property	3 (29)	2 (10)	2 (9)	4 (19)	4 (14)	3 (81)
Other	26 (229)	34 (183)	60 (247)	40 (177)	47 (182)	38 (1018)
Total	100% (870)	100% (532)	100% (412)	100% (443)	101% (388)	99% (2645)
				Missing		120
						Total abuse allegations 2765

$\chi^2 = 401.64, df=12, p < .001.$

Again, these data seem to evoke familiar stories: citizens complaining about traffic tickets, that they believe have been wrongfully issued; criminal suspects wrongfully searched; ordinary citizens searched without probable cause by officers on patrol. Again, we need to turn to actual descriptions of alleged police citizen encounters to see if such incidents comprised the large majority of abuse complaints filed with the CCRB.

In the rest of this chapter, we explore the kinds of alleged incidents encompassed by the various coding categories employed in the quantitative data by examining the qualitative sample.

B. Types of Civilian Complaint: Qualitative Data

Quantitative analysis pointed to a relationship between complaints stemming from crime report situations and serious abuse of force by police officers. In turn, our review of the qualitative CCRB sample did reveal a few allegations of extreme misconduct -- unprovoked brutality, backroom justice, excessive force to effect arrests, force after effecting arrests, and allegations of discriminatory enforcement by minority and special interest groups. These kinds of complaints are what the public expects the CCRB to handle, even if none of the complaints allege as much brutality or injury as events upon which the media has focused in recent years.

Yet such cases constitute only a small proportion of the complaints reviewed in the qualitative sample. Several complaints arising in crime report situations did not involve criminal suspects; instead, complaining victims were by-standers who were at the scene of a reported crime. Many complaints alleged relatively minor misconduct. Several others pointed to extreme provocation by citizens.

This section examines the nature of the complaints that come into the CCRB: force, abuse and discourtesy complaints; complaints arising from traffic, dispute, crime report and patrol situations;¹

¹The qualitative sample was drawn exclusively from complaints that fell into the four most frequent categories of situation -- traffic, crime report, dispute and patrol. This sampling strategy permitted enough cases of each type to illustrate frequent situation types. (See Appendix B for a discussion of sample selection.)

and other types of complaints not explicitly recognized by CCRB coding categories, but constituting distinct subgroups within the qualitative sample.

Although at times we draw upon information uncovered during investigation, or look forward to the exploration of how particular kinds of complaints are dealt with, the focus here is upon allegations apart from investigation--the kinds of alleged behavior that lead citizens to lodge complaints against the police. It should be noted that this focus on alleged behavior may overrepresent the seriousness of complaints disposed by the CCRB, because it does not include officers' and witnesses explanations of the event as they perceived it. In some instances, therefore, we must look beyond the initial complaint to determine what behavior underlies the allegations.

1. Force, Abuse and Discourtesy Complaints

- a. Force Complaints

Force complaints in the qualitative sample range in seriousness from allegations of a minor push in a dispute situation to allegations of serious injury--a broken jaw, a broken nose, a neck injury requiring a brace. In spite of the fact that several complaints do allege injury and beating at the hands of police officers, many force complaints did not involve serious allegations of force. This was so, even though the qualitative sample overrepresented cases that had been fully investigated and were therefore expected to be serious. Most complaints did not allege injury--minor or serious.

i. "Cover Charges"

Because police officers are entitled to use force, investigation of force complaints often involves determining whether force was necessary, not whether force was used at all. The fact that force can be necessary in police work is thought by some to facilitate the justification of brutality. Chevigny (1969), writing of abuses of police power, argued that, in the 60's at least, "cover charges" were routinely employed whenever policemen used force, necessary or not.

Such arrest charges were not universal in the group of force complaints reviewed in this study. They appeared primarily in the most serious complaints. Eighteen of 61 force cases reviewed were accompanied by arrest charges of resisting arrest, disorderly conduct and/or assault on an officer. The fact such charges were brought did not necessarily mean that a complaint was impossible for the CCRB to substantiate; seven force complaints were substantiated despite arrest charges that were potentially "cover charges".

Some cases in which "resisting arrest" or "assault on a police officer" were charged clearly did involve forceful resistance. In a few cases, officers required hospital treatment themselves. In one such case in which assault on an officer was charged, the complainant alleged that he witnessed four or five police officers handcuff and beat a young man who was out of control. The complaining witness alleged that the victim was kicked in the groin after being handcuffed and that several bystanders asked the officer to stop, to no avail. Once the victim was placed in the RMP he began

banging his head against the car window. At this point, according to the complainant, officers started beating him again. Although the complainant had not seen the beginning of the encounter, and did not know why the police had been initially summoned, he recognized the wildness of the victim and the necessity of some restraint. He was unaware that an officer had been hurt trying to restrain the victim. He alleged that force was excessive, not unnecessary. In this instance, the resisting arrest charge was apparently not a "cover charge" even though excessive force may have been used to restrain the arrestee.

In most cases in our sample involving possible "cover charges", there was no apparent injury to officers and complainants denied that any resistance was offered. One complainant reported that her son, a black teenager living in a ghetto neighborhood, was stopped for carrying a baseball bat by three police officers who beat him with the bat and held him in a choke hold. The complainant claimed that her son was badly bruised and would be going to the doctor soon. The victim explained that he was bringing the bat to a friend and had left it hidden inside the friend's apartment building when he was stopped and questioned by three members of an anti-crime unit. One detective allegedly called out, "If you don't come over here, I'll bust you up," and called the boy a "fucking asshole." When the detectives found the bat behind the stairwell in the apartment building, they allegedly pulled the victim to their RMP, beat him, handcuffed him, forced the bat between his legs, and threatened to "break his balls." The victim alleged that "one was pulling

(his) arm back, one was choking (his) neck, (he) couldn't breathe, and they didn't care." The victim claimed he offered no physical resistance, although he refused to answer questions without an attorney present. He was charged with disorderly conduct, trespassing, resisting arrest and possession of a dangerous weapon. In this instance, the allegation contended that "cover charges" were used to justify the use of force.

Another case, in which only "disorderly conduct" charges were lodged, illustrates an implicit awareness among police officers of the value of resisting arrest charges to cover the use of force. The complainant, an attorney, alleged that his client, an 18 year old white male, was accosted by police officers, woke up in an RMP, and found himself at the precinct in severe pain. His client went to the hospital the next day and found out that his jaw was broken. Investigation showed that the victim had been involved in a fight outside a bar and the police were called to the scene. When they tried to break up the fight, the victim ran away. An officer chased him and caught up with him. At that point, the complainant alleges, the officer hit him in the mouth with an unknown object. This was in an area not visible to witnesses who observed the bar fight. During investigation, the subject officer argued in his own defense that he had not hit the man and that the complainant did not resist arrest, although he had run away. There had been no charge of resistance. The officer, insisting that no force had been used, pointed out that if force had been used, "resisting arrest" would have been charged.

ii. Complaints Not Associated with Arrest

If resistance, assault or disorderly conduct are recognized by officers as justifications for force, why are so many force complaints not associated with these potential "cover" charges? In fact, several complaints allege relatively minimal force, not requiring resistance as a justification. A few allegations report that police officers pulled guns in situations which complainants felt did not require so strong a demonstration of police authority (e.g., car stops, involving suspected stolen vehicles). In other cases, complainants allege that they were pushed during a search for drugs, a "stop and frisk", or an interpersonal dispute. One complainant alleged that she was pushed out of the way, when a crowd collected in a neighborhood bodega to watch a SNAP unit apprehend a suspected local drug dealer (her cousin). These relatively minor complaints are generally not associated with an arrest. Many appear to be the outcries of innocent citizens, resentful that police suspicion has been levelled against them or angered at improprieties they perceived in the police-citizen encounter.

Other cases involve relatively serious allegations of force also not associated with arrest or "cover charges". In some, there is little official record of such incidents and police officers are difficult to identify. For example, one complainant alleged that her son and a friend were accosted on the roof of their project building by a police officer, wielding a nightstick; yet the description they offered of the officer did not match that of anyone at the local precinct, and no officers from that precinct were active

in the area at that time. In another case, young employees of a deli on the lower east side alleged that they were taking a break in front of the store when they were told by two officers to "get the fuck back inside." They tried to explain they were on a break, and were directing the officers attention to junkies across the street, when one of the officers punched one of them in the face. He also punched the store owner, who had come to their defense. Although the officers had no memo book entry about the event, descriptions of the officers matched a pair of officers active in a tactical patrol unit in the area. Such incidents can arise during encounters between citizens and officers on patrol or off duty. They do not appear to occur frequently when officers are responding to radio runs; there are typically no official records placing the officer at the scene.

iii. Complaints Associated with Other Enforcement

Although many of the force complaints reviewed arose in situations where officers were responding to a crime report, most were not associated with an arrest for a serious crime, although there was one allegation of "backroom justice" in our sample. The complainant's son had been arrested on burglary charges. The boy was taken to a private room by a detective for questioning about open robbery cases. The victim alleged that during interrogation, his eyelid and lip were burned with a cigarette and he was punched in the chest and genitals. Photographs in the file support the allegation of cigarette burns.

Many force allegations, however, were associated with summonsable offenses and arrests for minor criminal offenses. In several cases, traffic summonses were issued, words were exchanged and the situation escalated. In one case, an illegal peddling summons was issued to a Good Humor man in downtown Manhattan. His goods were confiscated and charges of disorderly conduct were lodged. The victim alleged that he was punched repeatedly while en route to the station house. Another complainant reports that his neighbor was forcefully arrested for prostitution while shopping in the supermarket. Although the extent of force employed in the arrest is not specified in the complaint, the officer is alleged to have laughed and remarked "You ain't cooking no meat tonight." Still another force allegation stemmed from an incident in which a summons was issued to a man drinking beer on the street during a dinner break at night school. Hostile remarks by both the officer and the complainant led to one of the more violent police-citizen encounters captured by the qualitative sample.

In such cases, violence generally develops following an escalating conflict over police enforcement of a relatively minor infraction. Citizens may question an officer's judgment in giving them a traffic ticket, rather than ticketing other drivers guilty of the same offense. Or they may respond discourteously. Or police officers may be discourteous in serving a summons. Police officers may add disorderly conduct charges as citizens grow increasingly loud and hostile. Citizens may threaten to lodge complaints against

the officer. The outcome of such interactions may involve police abuse of force.

Violent interactions can also develop in other types of police-citizen interactions, not involving apprehension of serious criminal offenders. In several cases, force was employed in response to force by citizens. These seem to be generally (but are not un-faillingly) cases in which so-called "cover" charges are lodged. Typically, citizens are engaged in a dispute or brawl when police intervene. If citizens refuse to be restrained, or employ force to resist restraint, police use force, arguably necessary force, against them.

iv. The Etiology of Force Complaints

In some instances, officers misjudge or overreact to citizen response to a police action and interpret it as force against them. In one case, a driver stopped for a traffic infraction reached out to grab back a duplicate insurance card he had handed to the officer along with his license and registration. The officer felt threatened by the citizen's gesture and responded forcefully. In another case (which entered our sample as an abuse complaint), police officers castigated a female driver whose four-year-old son had pointed a toy gun at them during a traffic stop. They had nearly drawn their service revolvers in response.

Other force complaints, arising in crime report situations, involved conflicting interpretations of the situation to which officers responded. In a few instances, officers responded to radio runs alleging criminal activity and encountered situations that dis-

ferred from those defined in the radio report. In one such case, officers responded to a call of "armed robbery in progress" in the lobby of a Brooklyn apartment building. In fact, the complainant was involved in a dispute with a neighbor, whose mother had called the police. When the police arrived, they allegedly grabbed the complainant, slammed him against the wall, demanded his ID (he had none on him), and twisted his arm painfully while applying handcuffs. Several witnesses had gathered in the lobby when the officers arrived. The complainant alleged that the police ignored his explanation that he lived in the building, punched him, knocked him to the ground and hit him with a flashlight. He also alleged that he was beaten again after being placed in the RMP. Yet no arrest was effected. The officers drove him several blocks away and asked, "Do you want to be arrested, or should we let you go?" The complainant was released several blocks from his home. Although the officers had arrived expecting a man armed with a gun or a knife, they found no weapons on their suspect. They were forced to modify their interpretation of the situation in the course of the encounter. They saw the complainant's efforts to explain the situation from his point of view as a challenge to their authority.

Conflicting interpretations of events are also apparent in another force case. Officers on patrol came upon a man and woman, struggling with each other on the street. The complainant alleges that his pregnant wife had become hysterical during a funeral and had run in grief from the funeral home. He ran out after her and was trying to calm her down. Yet the officers responded as if he

were beating his wife. In fact, they entered a radio call requesting assistance in dealing with a "fighting couple." The complainant alleges that he was pushed and punched in the face so forcefully that he bled profusely from his ear. He required medical treatment for his injury. His wife tried to stop the officers from hitting her husband and, the complaint alleges, she was pushed roughly out of the way. The complainant was charged with disorderly conduct and resisting arrest. He understood that the police believed that he was beating his wife, but he was frustrated by their apparent unwillingness to listen to his explanation.

In another case there is both a conflict about the interpretation of a situation and another factor that generates some force allegations -- an informed citizen who feels he has "inside" information and should be called upon to interpret the situation for the police. A male and female officer responded to a call about an auto stripping in an Hispanic neighborhood. They stopped to question a young man who was repairing a car on the street for his brother-in-law. The young man began to show the officers the car's registration, when his neighbor, an auxiliary police officer who had originally called in the auto stripping incident, came over and asked why they were questioning the wrong man. The officers ordered the young man to move the car he was working on, and he explained that it couldn't be moved until the battery was replaced. The auxiliary officer attempted to explain that his original call involved a different car on another block. Yet the officers persisted in their interest in the situation at hand and began searching the car

being repaired. Both the young man and the auxiliary officer asked for a search warrant. The auxiliary officer asserted that he "knew the law," and identified himself as an auxiliary officer for the first time. The police began to threaten arrest and attempted to restrain the auxiliary officer, who began waving a pair of handcuffs to demonstrate his auxiliary officer status.

The incident escalated into the most violent confrontation in the sample of cases reviewed, involving several officers who answered a call for assistance, as well as the first two officers who arrived at the scene. A crowd gathered. Both the young man and the auxiliary officer were severely beaten; both officers were bruised. The two neighborhood residents were arrested and charged with disorderly conduct and resisting arrest. The allegations of unnecessary force are many and need not be detailed here. Our primary point is that the escalation into violence stemmed from the interference of the auxiliary officer who challenged the police officers' interpretation of the situation. The auxiliary officer had called the police in the first place, and believed he was entitled to direct how they responded to his call. In fact, his intervention was perceived by the officers as interference with governmental administration, and was charged as such.

Although incidents involving citizens who attempted to interpret situations for police did not account for a large proportion of force complaints, there were several such incidents: a mother, attempting to explain to police that the boy noisily banging on her door was her son, and not an unrelated intruder; an employee-

passenger, double-parked in his employer's van, intervening when his co-employee was asked for license and registration; an Hispanic father, who told his wife to call the police before he returned to attack a group of white men who had assaulted his sons, and who then attempted to justify the ensuing brawl to police officers responding to an independent crime report.

Such incidents involve a failure of communication between officers and citizens. Citizens who attempt to interpret situations to which the police respond may be overwrought and antagonistic. Police officers may not be able to calm these overwrought citizens, gather information and weigh its relevance. They may not try to. They may respond with force very quickly. Such responses may accelerate rather than decelerate potential hostilities.

In summary, the qualitative review of force complaints revealed few incidents in which officers were alleged to have assaulted serious criminal suspects. Force allegations were likely to stem from enforcement of relatively minor infractions or to involve bystanders who attempted to intervene in an ongoing police-citizen encounter. Several complaints alleged unnecessary force in response to civilians who challenged how officers handled or interpreted a situation. Several other complaints alleged excessive force in response to unruly civilian behavior (resisting arrest, disorderly conduct). The majority of complaints reviewed neither involved possible "cover charges" (thought by some to be automatically invoked by officers to justify the use of force) nor were associated with serious injury to civilians or officers.

b. Abuse of Authority Complaints

The category of abuse complaints is something of a catch-all at the CCRB. A wide variety of allegations, not entailing force, discourtesy, or ethnic slur, are classified as abuse of authority. In the 1984 qualitative sample, three specific types of the abuse were most frequent: wrongful enforcement (arrest, detention, summons, DAT); unwarranted search (persons, premises, vehicles); and improper seizure of property. Yet many of the abuse allegations reviewed did not fit easily into these categories.

As we saw in the quantitative section, over a third of abuse complaints are classified as "other". The qualitative sample reveals the wide range of allegations that fall into the "other" category: threats of arrest; threats of force; failure to take complaints; discriminatory enforcement; harassment; refusal to give shield numbers; broken doors; and, in one case, flirting while writing a summons.

i. Abuse of Arrest and Summoning Power

The way in which the CCRB classifies allegations of abuse of arrest and summoning powers is complicated by questions about whether specific complaints actually belong in the CCRB's jurisdiction. For example, some complainants allege that a traffic summons should not have been issued. Such complaints (protestations of innocence) belong more properly in the courts. Yet few complaints are that simple. Allegations that a ticket was not deserved are often accompanied by other allegations of threat, discourtesy or excessive delay.

Although some complainants' initial statements focus on the allegation that they "didn't deserve the ticket", CCRB investigators at times do not enumerate such protestations as separate allegations. Instead, they attend to other aspects of the complaint with which the complainant may be less concerned. For example, one complainant was issued summonses for "retarding traffic" and "failure to comply." He believed the summonses were undeserved. The subject officer was directing traffic away from an accident scene. Traffic was already backed up. The complainant stopped to ask directions of the officer, and thereby blocked other cars. The officer refused to give directions and threatened to issue summonses if the complainant did not move his car. He refused to move and summonses were issued. The complainant contended that the officer deliberately gave him wrong directions after issuing the summons. The investigator did not separately enumerate the allegation that summonses were issued improperly. Three specific other allegations were listed: failure to give directions, the threat to issue a summons, and deliberate misinformation. The summonses appeared justified based on the complaint itself.

In other instances, complaints about wrongful summonses were listed and exonerated. One complainant alleged that he had been wrongly issued a summons for horn-blowing. Although he admitted having blown his horn, he did not believe his action merited a summons. The complaint belonged in the CCRB's jurisdiction, because it also involved an allegation of an ethnic slur (the complainant alleged that the officer called him a "fucking Jewboy"). The abuse of

authority complaint was recognized as a separate allegation, but essentially dismissed.

In fact, only a small proportion of the abuse cases reviewed involved relatively challenging questions of enforcement. In two instances, investigators needed to clarify points of law to determine whether police actions were justified -- summonses for ticket scalping outside of Yankee Stadium against a season ticket holder who did not seek a profit; an order to leave a public park after 1 a.m.

Some abuse complaints alleged discriminatory enforcement or unequal treatment. One complainant, crossing the street in the middle of the block, was cut off by a Cadillac, which he kicked angrily as it passed. He was issued summonses for harassment, disorderly conduct and criminal mischief. His complaint alleged that the summonses were issued only because "the DA's wife was in the car." Another complainant alleged that officers would not permit him to file a cross-complaint, following a traffic dispute and fight with a former member of the police department. Other complainants alleged that traffic tickets were not issued to other drivers who were guilty of the same offense. The complaint about ticket-scalping summonses contains an additional allegation that summonses were not issued to active black ticket scalpers in the area (the complainant was white).

In the qualitative sample of abuse complaints, few complaints of wrongful enforcement involved the kinds of charges (disorderly conduct, harassment, interfering with governmental administration,

resisting arrest) thought to be "covers" for police abuse of authority. Such abuse allegations may be more likely when accompanied by allegations of the abuse of force as well as abuse of authority. Most complaints alleging abuse of enforcement power represented citizens who believed that summonses were undeserved, in spite of their admitted violations of law, and involved other types of alleged misconduct as well.

ii. Search Complaints

Search complaints range from a vague allegation that the complainant was "searched for no reason" to detailed descriptions of encounters with specific officers. Several allegations of wrongful search involved drugs. One complaint (classified as a force complaint because of an alleged push) stemmed from an incident in which the complainant had stopped her car and left briefly to talk to friends in another vehicle. The officer was responding to a report that drugs were being dispensed from a blue vehicle in the area. He searched the complainant's car and is alleged to have pushed her when she returned to investigate. She complained that the officer did not explain why he was searching her car or, subsequently, her person.

In another search complaint, officers entered a social club with no warrant, looking for someone with a gun. Everyone present was searched and two men were arrested for possession of drugs in glassene envelopes. The complaint implies that the search for drugs was not based on probable cause and went beyond the requirements of the search for the weapon. The filing of this complaint may have

served the complainants' interests in their defense against criminal charges.

Another search incident was perceived by the complainant as ethnic harassment. The complainant, a Jamaican, had pulled over to drop his brother off outside the restaurant where he worked. Plain-clothes officers pulled up and searched the two brothers and their car. The officers claimed to be looking for a robbery suspect with a gun. In addition to allegations of improper search, the complainant alleged that the police officers failed to identify themselves properly, said "shut up, or we'll get nasty," and threatened bodily harm and future harassment.

Another complainant alleged that police officers wrongfully searched his apartment after bursting in -- allegedly without knocking -- in search of a reported prowler. The complainant and a "female friend" had just gone to bed when the officers entered. The complainant alleged that they broke his door down and started "looking through his things," including his medicine cabinet. When the complainant objected to the search, the officers left.

Allegations of wrongful search in the qualitative sample fall into two groups -- (1) those in which the complainant saw "no reason" for the initial search and (2) those in which grounds for the initial search were established (search for a prowler, report of a man with a gun), but aspects of the search were seen as exceeding authorized limits. Complainants objected if they were searched without being informed of the reasonable grounds for the search.

Some were sensitive to civil liberty issues. Others sought to protect themselves from arrest charges stemming from search incidents.

iii. Seized and Damaged Property Complaints

There were only a few complaints about seized property in the qualitative sample, although there were several allegations of damage to property. No complaint involved allegations that officers removed property for personal gain; such allegations belong more properly in the Internal Affairs Division. CCRB complaints instead involve the confiscation of weapons or property or the loss of and damage to property during interactions with police.

One complainant admitted having "attacked" a taxicab with a tire iron after it had cut him off (he claims he did not hit the cab). The cab was a decoy, manned by plainclothes policemen. The complainant alleged that the driver ran out of the car with his gun drawn, showed his shield, confiscated the tire iron and searched the driver and his car. He further alleged that the officers said "I should blow your fucking head off," "Watch who you fuck with," and called him "Guido," a perceived ethnic slur. The complaint involved several abuse allegations -- the threat of force, improper search, pointing a gun, and the confiscated tire iron. In addition, the complainant remained angered that the decoy cab had cut him off "three times" and perceived such traffic behavior by officers as worthy of complaint.

Another complaint involved a taxi driver from outside the city who was illegally operating within the city. He was issued summonses for "no tax stamp", "unauthorized meter," "improper registra-

tion" and "unlicensed operator". His complaint focused on the fact that the officers removed his license plates, rather than on the summonses. He alleged that when he asked the officers how he could drive without his license plates, they responded that they "didn't give a damn," suggested that he get a tow truck and threatened arrest if they again saw him operating within the city.

Several complaints alleged damage to property. There were at least three complaints involving broken doors -- one smashed during a search for a burglary suspect; one broken by an estranged spouse using police to gain entry to her husband's apartment (claimed to be her own); and one damaged during a police search for a prowler (discussed above). One complainant alleged that his car's sensitive transmission was damaged when police drove it to the station house, after his arrest for traffic violations. A teen-aged complainant alleged that his sheepskin coat was systematically slashed with a knife by an officer after his arrest at school for assault; he claims that the officer announced that he wouldn't beat the boy up, but that he had "other ways of dealing with him." Although some allegations of damage to property point to intentional malicious behavior, meant to harm the victim, some allegations involved damage to property that occurred without malicious intent.

iv. Threats of Force and of Arrest

The largest group of "other" abuse complaints involve threats of force and of arrest. One threat of force appeared to stem from an order maintenance situation; an officer allegedly told a local peddler that he would "beat his ass" if he continued selling on the

officer's beat. Another threat of force had no relation to any enforcement strategy: teen-aged complainants alleged that they were "hanging out" when an RMP pulled up and officers ran out, leaving the car door on the street side open. Upon their return, an officer allegedly said to the joking teen-agers "If you laugh, I'll knock the shit out of you." In another force threat allegation, the complainant alleged that an officer had threatened his life in retaliation for a prior complaint to the CCRB. Other such allegations stem from off-duty incidents; one complainant alleged that after a traffic dispute, an off-duty officer threatened to knock his teeth out. Other alleged threats of force were reported by complainants who were clearly deranged, made incoherent statements and were reported to be schizophrenic by family or friends; in some cases, investigation revealed that the encounter with the police was imaginary.

Threats of arrest were more likely to be related to police strategy or efforts to control situations than were threats of force. A complainant who had called the police in a dispute objected when the police appeared to side with his neighbor; he alleged that the subject officer told him to "shut-up, or be locked up." In another case, an officer was called to a fashionable east side boutique by the complainant, who claimed to be the store owner. In a dispute with a customer, the complainant had grabbed the customer's glasses, and refused to return them until the customer apologized. The subject officer told the complainant that if he did not return the customer's glasses, he'd be arrested. Discourtesy was also alleged; the subject officer was reported to have said, "I

hope your store burns down, and if it does, I won't answer the call."

Officers were also alleged to have threatened arrest when they were called to a dispute between a complainant and his girl friend, who claimed that the complainant had stolen her jewelry. The complainant, who was trying to get the girl friend to move out, had originally called the police. He was angered when the police threatened to arrest him if he did not return the jewelry. His complaint alleged that the girlfriend had, in fact, stolen his jewelry; he seemed more concerned with this allegation than with alleged police impropriety.

In the cases discussed above, arrest threats appear to be used in dispute situations as a strategy that permits officers to assert control. Disputants, who may have summoned the police in the first place, resent the fact that officers appear to take the "other side." Such situations appear to be fertile ground for CCRB complaints.

v. Harassment and Other Abuse Complaints

Other abuse complaints allege harassment. One complainant had previously been arrested by the subject officer on drug charges. The complainant reported that his previous arrest caused his dismissal from the fire department. His complaint alleged continuing harassment:

I was waiting for two friends outside of Chicken Galore, four blocks from my house. The officer asked what I was doing. He said I was a scumbag, he wasn't afraid of me and would fight me. He said, "I'm going to get you as long as you're on my turf."

The complainant also alleged that the officer searched him, failed to return his car keys after the search, and boasted that the complainant's prior arrest had helped his (the officer's) career.

One harassment allegation was not tied to any particular officer. A transvestite complained that officers repeatedly tried "to make (him) take (his) clothes and wig off on the street" and called him a faggot.

Another harassment allegation was filed by a complainant who claimed to be a doctor. He alleged that "police officer L. monitored his movements by using police data and information." The officer was also alleged to have followed the complainant's family on trips and found out about all his traffic tickets. The complainant added, "I accuse the police officer of releasing information relative to my deceased father's arrest in Boston for illegal entry." Like alleged threats of violence, allegations of harassment occasionally bespeak the psychosis of the complainant more than the misbehavior of the officer.

Other abuse complaints are difficult to categorize. A few complaints alleged dangerous or improper operation of RMP's. One complainant alleged that an officer told him to change his seat in traffic court, in spite of the fact that there was no section reserved for Police Officers in that court. Another complainant alleged that an officer had accused building staff (doormen) of slashing the tires of his car, which had been parked (illegally) outside an apartment building during the officer's tour of duty. Another alleged that an officer failed to cooperate when a security guard

called for assistance with a suspected teen-aged shoplifter at a supermarket; the complainant also alleged that the officer refused to identify himself.

The wide variety of abuse complaints makes generalization difficult. There were few serious allegations of false arrest and imprisonment or of malicious prosecution. There were several allegations of threats -- both of arrest and of force. Several complaints were filed by individuals who were clearly delusional. Allegations of wrongful search pointed to the potentially most serious abusive behavior. Many complaints involved minor enforcement activity for violations which complainants themselves admit.

c. Discourtesy Complaints and Ethnic Slurs

i. Discourtesy Complaints

As was apparent in force and abuse complaints, discourtesy is endemic in police-citizen encounters that generate complaints, particularly in traffic situations. Sometimes discourtesy ignites a situation, leading to further abusive action, which might have been avoided, but for the exchange of epithets between officers and civilians.

In the qualitative review of how the CCRB handled discourtesy complaints, we have limited ourselves to complaints in which discourtesy was the most serious allegation -- discourtesy complaints that do not involve allegations of either force or abuse. Some CCRB personnel feel this set of complaints does not belong within the agency's jurisdiction. They claim that the CCRB was created to deal with serious allegations of force and abuse and that there is no

mandate for including minor allegations of discourtesy, which could be dealt with at the command level.

Discourtesy complaints range in specificity from allegations that officers were rude and abusive in traffic stops to detailed descriptions of specific events and particular language. Some allegations involved rudeness without obscenity: "You'll find it on the summons"; "Shut up and shut everything off"; "None of your business"; "Don't give me any lip"; "Report me if you don't like it"; "Are you a cop? Go sit in your car and shut up.". Others alleged obscene gestures or gratuitous obscenity: "Ask the fucking judge"; "...your fucking license and registration"; "Keep the dog in the fucking car or I'll shoot the fucking dog."; "Never fucking mind". Others alleged that officers used more personal, more threatening language: "black bitch"; "What's your problem, big mouth...Shut up, and pull the god damn car over"; "I should put my fucking dick in your mouth."

Apparently, middle-class complainants were more frequent in the group of discourtesy complaints than in the force and abuse complaints. There are several possible reasons for this. Traffic situations (often involving the middle class) are an apparent breeding ground for discourteous police-civilian interactions. Furthermore, middle-class citizens may be less likely to be the victims of police brutality and abuse of authority than others. Finally, middle-class citizens may be bothered more by routine police discourtesy than others.

Discourtesy complainants span the social spectrum. One complainant was a doctor, who tried to explain the fact that he was speeding by claiming a medical emergency. When that failed, he identified himself as a police physician. He alleged that the officer was rude in response: "All you fucking doctors are the same."

Discourtesy complainants who were neither middle class or female generally alleged more than simple bad language. An imprisoned black complainant, who had been returned to prison on a parole violation after an arrest for assaulting two women (one, his wife), alleged that the subject officers would not permit him to file a cross-complaint against his wife. They explained that "pimps and guys married to white women" were not permitted to file such complaints. He further alleged that the officers promised to give his wife "a good fucking." Here, the complainant was as concerned with his inability to file a cross-complaint as he was with the alleged discourtesy. The complaint was categorized as involving discourtesy/ethnic slur only, because the prevention from filing a cross-complaint does not constitute abuse, as defined by the CCRB, but rather a failure of police service, an issue to be referred to the Chief of the Department.

As was apparent in our review of abuse complaints, sometimes complainants are as much concerned with perceived abuse of authority (wrongful summonses, police inaction) as they are with alleged discourtesy. CCRB investigators shape some complaints to focus on discourtesy. One complainant alleged that officers in an RMP held up traffic for a long time and then ticketed the complainant for going

through a red light; this allegation was not listed by the investigator as abuse, although alleged discourtesy was listed. Another complainant was not satisfied with the intensity of police response when he asked them to arrest three-card monte dealers; he complained that the subject officer was rude when he berated him for failing to pursue the perpetrators, who raced across the street through traffic. Another complainant believed that the subject officer mishandled a dispute between her landlord and her neighbor, and complained that the officer was rude to her when she tried to explain how disruptive the neighbor had been. Implicit in the classification of these complaints as discourtesy, not abuse, is the recognition that the alleged abuses are not inherent violations of police procedure.

Discourtesy, no matter how minor, is always perceived as improper. As we will see in the next chapter, discourtesy allegations are rarely exonerated. One complainant alleged that he had been called a "liar" in traffic court, a relatively minor offense. The subject officer explained that she had testified that the individual who appeared in traffic court was neither the individual to whom she had issued a ticket nor the individual who had appeared at a previous hearing. Although the complainant may in fact have been a liar, the complaint was not exonerated, but was unsubstantiated. As a board member explained, any discourtesy represents a violation of professional norms. In this sense, discourtesy complaints differ from force, which can be justified as necessary, and alleged abuse of authority, which can be deemed appropriate and proper.

ii. Ethnic Slurs and Complaints Alleging Discrimination
against Minority Groups

There were only a few complaints in the qualitative sample in which an ethnic slur was the most serious allegation. In one, police had been called to a dispute involving a black family. They were alleged to have remarked, "You people are always calling the cops" as they left. The complainant believed the remark referred to blacks in general. In another complaint, involving a landlord-tenant dispute to which two officers responded, one officer is alleged to have told a disputant, "Leave the nigger alone."

In the qualitative sample as a whole (including force and abuse complaints), there were only a few other ethnic slur allegations. Blacks were not the only complainants. Two were Jewish, one Greek, one Italian. Yet racial issues were implicit in some complaints. A letter alleging rudeness in a traffic incident suggested that "perhaps the officer doesn't like Caucasians." Other complaints also involved an ethnic subtext: a dispute involving an Hispanic, a white woman and the sale of a leather coat; a racially motivated brawl between Hispanic youth and white men, who attacked the youth's car. Minority complainants generally alleged that police officers appeared to side against them in such incidents.

Other complaints bespoke a belief that a particular minority group was repeatedly and unfairly victimized by police. The Jamaicans who alleged that they were unfairly searched by police looking for a robber believed that the search was motivated by a patterned harassment of Jamaican drug dealers in the neighborhood.

In some force complaints as well -- a black boy carrying a baseball bat, beaten by white officers; Hispanic deli employees, assaulted by white officers on patrol -- complainants appeared to suspect a pattern of racial harassment, but they did not specifically allege racial motivation.

Perhaps the most racially disharmonious encounter in the qualitative sample -- a force complaint -- arose shortly after a black person had been shot by police in a well-publicized incident. Three white off-duty officers were drinking in their car in the precinct where they were assigned. The complainant and his friends saw the officers in plain clothes talking to a black youth about the shooting. The complainant alleges that the officers were drunk and challenged him when he listened to their conversation. He claimed that two of the officers jumped from the car, pushed his friend against the car and punched and kicked him. Both the complainant and the officers agreed that the incident was in some way related to the tensions surrounding the black-white police shooting incident.

A few complaints were filed by special interest groups representing minority interests. In a preliminary review of case files before the qualitative sample was selected, we reviewed a complaint filed by a black group, seeking to expand minority employment in the building trades. They alleged that members of their group were unreasonably searched at the group's headquarters during a police chase of a man with a gun. The incident led to the arrest of several members on charges of obstructing governmental administra-

tion, riot and disorderly conduct. The complainants further alleged systematic harassment of their group by local police.

Another complaint was filed by a gay rights advocate who alleged that the detective investigating her client's charges of assault had failed to make a speedy arrest of the perpetrator. She also alleged that the detective was rude and intimidating when the gay rights advocate and her client went to discuss the case. In this case, as in others previously discussed, the complainant was as concerned with an alleged failure to act as she was with perceived rudeness to her.

Only a few complaints alleged racial or minority epithets--nigger, Jewboy, faggot. The infrequency of complaints alleging the use of such epithets may suggest either that police have been sensitized to the offensiveness of such terms or that the public does not complain about such misconduct, when it does occur. Although there were relatively few allegations of ethnic slurs in the qualitative sample, the underlying content of many complaints pointed to problematic police-minority relationships as an abiding concern of complainants.

2. Situations that Generate Complaints

a. Traffic Situations

Quantitative analysis revealed that traffic situations generated nearly a third of all complaints and that traffic situations differed from other types of situations in terms of the kinds of complaints generated. Traffic situations were considerably more likely to contain allegations of abuse and discourtesy than com-

plaints arising in other situations and considerably less likely to contain allegations of force. Other types of situations that generated a substantial number of complaints (dispute, crime report, patrol) did not differ greatly from each other in terms of the kinds of complaint that arise.

Complaints arising in traffic situations typically began with traffic enforcement -- violations involving speed, stop signs, red lights, parking, double parking, horn blowing, reckless driving and failure to yield. Sometimes the complaint did not specify what type of enforcement was involved. Typically, officers were alleged to have been rude. Frequently, complainants objected to the enforcement itself. Some argued that others, who should have been ticketed as well, were not. Some pleaded special circumstances that explained their apparent violation of traffic rules. A few contended that they were unreasonably held up in traffic by police behavior and that police were either rude about such delays or unforgiving about traffic transgressions that resulted from delay.

Complaints stemming from more serious traffic encounters were less frequent. One complaint arose when a complainant was stopped in a suspected stolen vehicle. The complainant objected that a gun was drawn in such a situation. Another complaint stemmed from a serious accident involving extensive damage to two cars. The complainant, arrested for drunken driving, refused to take a breathalyzer test or to cooperate when he was arrested. He alleged that he was dragged forceably from precinct to precinct and, finally, when he requested medical attention, to the hospital. The com-

plainant contended that he was not drunk, but suffering from a concussion that resulted from his accident. The subject officers argued that the complainant smelled strongly of alcohol, was reeling and incoherent, refused to walk at all, and had to be carried from place to place in spite of his reported obesity.

Several complaints were lodged against officers involved in traffic disputes while off-duty -- an off-duty officer who cut off a cab, an off-duty officer in an accident, an off-duty officer in a dispute about a parking space, an off-duty officer alleged to have shown his gun in a traffic dispute. Off-duty officers were frequently said to have been rude and to have improperly asserted their authority in a situation in which they were allegedly at fault.

A few complaints alleged unsafe operation of an RMP. At times, this appears to have been strategic. One complaint alleged that a patrol car was parked with its lights off, heading the wrong way on a one-way street. The officers explained that they had seen the complainant driving recklessly and had circled around and cut him off. Other complaints alleged that an RMP failed to signal or cut them off in traffic.

Although force allegations were less frequent in traffic situations than in other situations, they were similar in kind to force complaints in general. One complainant was setting up a manhole blockade to repair telephone cables when a car knocked over a sign and nearly knocked the complainant down. A traffic dispute arose between the offending vehicle and another vehicle. An RMP was flagged down. Both drivers were interviewed and let go. The com-

plainant, who had come close to being hit, objected. Allegedly, the subject officer said "What are you, a fucking wiseguy?"; threatened the complainant with arrest; slammed him forcefully against a truck; and arrested him for disorderly conduct. Handcuffs were applied so tightly that the complainant went to the hospital with badly swollen wrists. The officers allegedly remarked "I don't give a shit" when the complainant said that the cuffs were too tight. As in other force complaints reviewed earlier, the complainant was not directly involved in the incident under investigation; instead, he attempted to reinterpret that incident for officers and questioned how the officers responded to the original situation.

Other traffic complaints in which force arose generally entailed charges of disorderly conduct against the complainant. In most cases, complainants objected to some enforcement activity, asked for an explanation, threatened to report the officer, or asked why some other enforcement activity had not taken place. In traffic situations, force did not generally arise in response to simple citizen discourtesy, but rather in response to some challenge of the officer's authority by the complainant.

b. Dispute Situations

Police officers are frequently called to disputes between landlords and tenants, neighbors, family members, lovers, shop-keepers and customers, and barroom patrons. In dispute situations to which police respond, the parties involved generally have conflicting goals and contradictory explanations of the underlying problem. Officers generally attempt to resolve, defuse or mediate the situa-

tion; if necessary, they can make arrests or order one disputant to leave the scene. In some cases, disputants must be physically restrained. Threats may be an intrinsic part of the officer's response to dispute situations.

Not surprisingly, several dispute complaints in the qualitative sample alleged that officers threatened arrest or, in some instances, force. One complainant had called 911, and claimed that he had been assaulted by an unknown party. Neighbors at the scene explained that the complainant had broken into their house when he was drunk and suggested that the complainant be arrested. Although it was finally agreed that no one would press charges, the officer is alleged to have told the complainant, "shut up, or you'll be arrested". In this case, as in several others, the complainant had placed the original call and was annoyed that the responding officer did not take his side.

Occasionally, complaints arose when citizens enlisted officer assistance to help them in a dispute. One complaint arose when an officer was asked to help serve a subpoena to an estranged husband; the complainant, who answered the door, claims that the officer and the ex-wife entered the ex-husband's bedroom without permission (the ex-husband hid in a closet). Another complainant alleged that police officers helped his ex-wife break into his apartment, when she claimed she had lost her key; the door was broken in. Another complainant summoned the police to his girlfriend's apartment (he wanted to get his clothes back). He told the subject officer his girlfriend had a gun. The officer returned and said there was no

one in the apartment. The complainant alleges that the officer then pushed him against a wall, refused to give his shield number and responded (when the complainant threatened to report him) "I don't give a fuck. I don't like your tone of voice."

A number of complainants in dispute situations admitted that they were intoxicated when the situation occurred (at times when the complaint was filed, as well). Some of these complainants alleged that they were pushed by police or were refused entry to their apartments. Yet their allegations were muddled and the story incoherent.

A few complaints arose during serious battles -- a barroom fight, an inter-racial brawl, a schoolyard incident in which an irate father returned to fight his son's attackers. In each of these incidents, police abuse of force was alleged. Yet it is not clear from review of the case file how the situations were classified by CCRB coders. Although they began as disputes, they escalated rapidly. It is likely that police responded to a reported crime (assault) rather than a reported dispute.

c. Crime Reports

In the qualitative sample, only a few crime report complaints involved serious abuse of an arrested offender. As previously discussed, there was only one allegation of "backroom justice" -- the beating of a robbery suspect during interrogation. In addition, a boy arrested for assault claims that the subject officer deliberately slashed his coat. A man arrested for assaulting two women al-

leged discourtesy. Several arrested complainants alleged that their handcuffs were too tight.

A number of allegations of unreasonable search stemmed from situations in which police were responding to a reported offense -- drug sales, gun possession, robbery and rape. In such situations, officers may have stopped citizens who matched the described perpetrator or who were in the vicinity of the reported crime. They may have failed to inform complainants of the reason for the search, be rude or rough during the search, or used the crime report as a pretext for an unsupported search for drugs.

A few complaints arose in crime report incidents when officers went to a place of employment, either to apprehend a suspect or to investigate an incident. In one incident, an officer went to a restaurant to question a cashier, who had been charged with making harassing phone calls. The cashier, alleging that the officer had been rude and had threatened arrest, was particularly angered because she had been questioned at work and embarrassed before co-workers. In another incident, an ambulance driver was arrested for menacing when he returned to garage. He complained that officers used unnecessary force and failed to "give him his rights". In other complaints, complainants mentioned that their jobs had been threatened or lost because of their involvement with the police. The fact that involvement with the police threatened their job status angered some citizens who had no other grounds for complaint.

In several instances, force allegations were filed after police responded to a specific crime report and found a situation that did

not match their expectations--a reported robbery that was really a dispute, a reported auto stripping operation at the wrong location. In such instances, the police response to the situation before them seemed to be shaped by the expectations created by the crime report.

In one complaint, police were responding to a reported knifing. They came upon a full-scale fight between Hispanics, armed with pipes, and whites, who had previously assaulted a car driven by Hispanic teen-agers. The father of the teen-agers had asked his wife to call the police, and believed the police were responding to his call. They were not. They came upon the situation with the expectation that someone had been stabbed (an ambulance, also called to a knifing at that location, later found that the knife incident had occurred a few blocks away). The officers lined the disputants up against the wall and appear to have sided against the Hispanics. The Hispanic complainant alleged that the officers did not restrain the white disputants, one of whom pushed into the line to attack one of the Hispanics. He alleged that an officer struck the complainant and his son in turn when they objected. It is difficult to say whether the officers would have behaved differently if they had been responding to a complaint that white men had attacked Hispanic youth, rather than a crime report that someone had been stabbed. Yet in the various situations in which police responded to a reported crime and discovered a different incident, there was an apparent failure of communication. Complainants were apparently given little chance to explain what was actually going on.

Force allegations in crime report situations seemed to be particularly likely when police responded to brawls. There were three such incidents in the qualitative sample. In all of them, police were required to restrain those involved. Generally, the need for restraint was minimal. Yet in one instance (a father whose son was involved in a schoolyard brawl) an officer used mace to restrain the father, who continued to battle both his original opponents and the officers who arrived on the scene, in spite of it. Further restraint was required.

d. Patrol

Officers on patrol can encounter a wide range of situations as they patrol their beats, either on foot or in an RMP between calls for service. The distinctive characteristic of patrol situations is that they do not represent a response to a particular call. Patrol encounters with citizens are either proactive and self-initiated (order maintenance activities, for example) or a response to something observed in passing.

Order maintenance situations generated several complaints. An intoxicated complainant did not move on when ordered to; he alleged that the subject officer "stuck him in the neck," apparently with his nightstick. Another complainant objected to being told to leave a park at night. Another complainant alleged discourtesy and the threat of force when officers in an RMP told her daughter get rid of firecrackers.

Other complainants include peddlars and drug dealers who objected to repeated enforcement and officers' attempts to keep them

off their beat. A Good Humor man in a "no peddling" area alleged that police used unnecessary force after his goods were confiscated. A complainant, previously arrested for drug sales, alleged harassment and unnecessary search against the officer who originally arrested him.

Relatively minor summonses issued on patrol also generated some complaints. A beer-drinking summons in a known drug location involved an exchange of epithets, further charges of disorderly conduct and resisting arrest, and a violent encounter between the complainant and police. Another complaint was filed by a man who had been intoxicated in midtown and was found urinating in an alley by police and charged with public urination. Although he admitted his guilt, he alleged that the officers ordered him to "kneel in it" and, when he did not, beat him.

Other complaints arising in patrol encounters alleged general rudeness and, in a few instances, unnecessary search. Although one or two complaints alleged apparently gratuitous force, force allegations in patrol situations in the qualitative sample were relatively few and generally minor.

3. Other Complaint Types

a. Interpersonal Complaints

Several complaints did not involve police behavior as such. Some resulted from interpersonal disputes between police officers and members of their family or neighbors. In some instances, complainants tried to gain leverage in a personal dispute with the subject officer by using the CCRB against him. For example, the ex-

wife of a police officer alleged that her former husband had threatened to "punch her in the eye" if she kept calling him. The complainant had been calling the officer repeatedly, trying to collect \$120 owed for phone calls to Puerto Rico. In another case, a police officer's landlord complained that the officer threatened to arrest or injure him if the broken door on his apartment was not repaired. During the investigation, the complainant added that the subject officer owed him \$700 in back rent and that the landlord had initiated court action to collect his money. In both instances, complainants seemed more concerned about collecting money than they were about the alleged offense.

Another interpersonal complaint involved an officer and his former wife's brother. The officer's new wife claimed she had been receiving suggestive and harassing telephone calls from the officer's ex-brother-in-law. The officer drove out to confront him. The complainant in the case is the wife of the officer's ex-brother-in-law. She alleged that the officer arrived at her house, waited for her husband to return home, and assaulted him when he arrived, knocking him to the ground. She reported that the officer said, "Stay away from my wife, or I'll put a bullet in your head." When the complainant threatened to call the police, the assailant announced that he was a policeman.

Other complaints deriving from essentially interpersonal situations, involved allegations that officers misused their service revolvers. One such incident began as a late-night neighborhood snowball fight between teen-agers in the backyard of the officer's

apartment complex. When the officer's family arrived home, they heard a commotion and he went to investigate. The teen-aged complainants alleged that he pointed his revolver at one or two of them, failed to identify himself as a police officer, and "made off-color remarks". One witness reported that he "put a gun to Donnie's head" and said, "I can do whatever I want. I'm a police officer". The witness added that the officer failed to show his shield when asked to. All witnesses agreed that the officer eventually apologized and said he was "just trying to scare them". But their stories also demonstrated an underlying neighborhood disharmony and a deep involvement with neighborhood-level gossip. One witness pointedly remarked that the officer and his wife were "always fighting" and that he had been seen beating his wife. Another described the officer as a "male Puerto Rican", an unusual ethnicity in their Irish-Italian neighborhood. Although witnesses alleged genuine misconduct ("This is a real fuckin' gun and I'll blow your head off."), the extent of unsolicited gossip in the reports of teen-aged witnesses points to an underlying neighborhood conflict that may go deeper than the specific incident.

Another interpersonal complaint was filed by a man whose former girlfriend was dating a police officer. The complainant had waited outside of his former girlfriend's house in his car and followed the officer and the girlfriend when they left on a date. He made a U-turn in Mt. Vernon, cut them off, and words were exchanged between the officer and the complainant. The complainant continued to follow them from Mt. Vernon into the Bronx. His complaint alleged that

the officer pulled over in the Bronx. Apparently both of them got out of their cars and a fight ensued. The complainant alleged that the officer drew his gun, threatened violence, struck him with the gun and had him arrested. He also alleged that he had not known that the man dating his former girlfriend was a police officer. Although the complaint alleged abuse of authority, unnecessary force and discourtesy, the motivations behind the incident were essentially interpersonal.

b. Off-Duty Traffic Complaints

Another group of complaints alleged misbehavior in traffic disputes between off-duty officers and citizens. Some of these complaints alleged job-related misconduct -- preferential treatment of officers by other officers or the display of service revolvers in traffic disputes. One complainant got into an altercation with an off-duty officer, parking in a shopping area, when he tapped on the officer's car to show that he was crossing behind him. He alleged that he was later beaten by the officer who mistakenly believed that the complainant had thrown a rock at his car. The complainant further alleged that police officers, who happened by the assault scene, sent the complainant away when they learned his attacker was a police officer and filed no report on the incident.

Other complaints simply alleged rudeness in off-duty traffic encounters. One complainant reported that someone in a parked car with a police identification card in the window had "given (her) the finger". Another complainant reported that an off-duty officer,

questioned about blocking the complainant's driveway, had replied "I can park anywhere. I'm a high-ranking police official."

c. Complaints Involving Retaliation

Some case files show evidence that particular complaints may have been filed as an act of retaliation against a particular officer. A complaint alleging discourtesy and a threat of violence was filed by a complainant who had been chastised by police the day before, during an argument with his girlfriend. The complainant, a member of the auxiliary police in the precinct, claimed he encountered the officer again the next day, when the alleged discourtesy and threat occurred. Yet a letter from a Lieutenant in the Precinct revealed that the complainant had been ejected from the auxiliary police unit following the dispute with his girlfriend and three previous incidents in which he had been unruly. The Lieutenant wrote: "It is my feeling that his complaint is an attempt to retaliate...for reporting his misbehavior."

The theme of retaliatory complaints emerged in other cases as well. One complainant admitted that he filed his complaint to "get even" with an officer who had given him a traffic summons. In another complaint, a female taxi driver in a violent dispute over an accident, was quoted by a witness as having said to the responding officer, "I'm going to make a complaint out and you'll have to lose time explaining". In another complaint, an ambulance driver, who had lost his job following an arrest (discussed earlier), denied having been fired in interviews at the CCRB, claiming that he quit his job two weeks after his arrest. The complainant's general

hostility and lack of credibility pointed to retaliation as a possible motivating factor.

Yet, there were also charges of police retaliation against complainants for having filed complaints. A former detective wrote an anonymous letter, complaining about the discourtesy of an officer who stopped him for speeding; he explained that the letter was anonymous because he did not want the officer to retaliate against him for having filed a complaint. Another complainant filed two complaints within two days: the first alleged that a police officer had caused damage to his car; the second alleged that the officer against whom the complaint had been filed had threatened the complainant's life because of the complaint. Another complainant reported that an officer, against whom he had previously filed a complaint, "gave (him) the finger".

d. Complaints tied to Court Cases

Other complainants may have used the CCRB to further their personal goals in civil or criminal cases. CCRB staff contended that this happens frequently and suggested that attorneys may try to use CCRB investigators to save investigative legwork in civil cases. Yet it is not always clear from case files which cases involve such motives. Only 13 cases listed attorneys as having some involvement in the case. In three of these cases, the complainant was an attorney acting in his/her own behalf. In several cases, attorneys ultimately advised clients to withdraw, or acknowledged to investigators that the complaint was not serious.

Yet there were a few cases in which the complaint may have been motivated by court actions. A complainant whose jaw was broken after a bar fight was represented by an attorney, who presented a detailed account of his client's suffering; the complaint alleged that the broken jaw resulted from police action, although the complainant had denied that he had been injured by the police at the scene. In this case and in another -- in which detailed accounts of the complainant's inability to work after a reactivated knee injury were presented -- it is very likely that civil suits had been filed, although case files did not refer to these suits. Similarly, in other complaints reviewed, in which injury was alleged and an attorney retained, there may well have been an accompanying civil suit, even though damages were not extensively spelled out.

In the case of alleged "backroom justice", there was clear evidence of the complainant's awareness that his CCRB case might have had some bearing on criminal court involvements. Two years after the alleged incident took place, the complainant was again arrested, this time for robbery. During detention at Riker's Island, he made a formal statement, saying that he had lied to CCRB interviewers in his allegations against the first arresting officer. Four days later he officially recanted his statement to CCRB interviewers, claiming that he had "knowingly signed a false statement because he thought it would help him on a gun charge." The investigative report found that:

...he was afraid that he was going to be charged with possession of a gun and some 'crack' so he figured if he told them he had lied about those allegations he would

not be charged with the possession charges.

e. Mentally Ill Complainants

Other complainants appeared to have filed CCRB complaints for obscure personal reasons. There were several mentally disturbed complainants in the qualitative sample. Two were "chronic complainers". One, who had filed 16 previous complaints, alleged that a police officer was giving out her phone number. The other had filed 48 complaints in a two year period. In one of these cases, the complainant alleged that police officers were rude to her and her daughter when they went to the store. In another case, she alleged that police were rude to her in a dispute with her landlady and pushed her, even though she was pregnant. The investigator recognized that the complainant was a "known psychiatric case" and added that she was in the "troublesome person program at the women's shelter". Not only may some of the complainant's encounters with police have been imaginary, but the daughter who allegedly accompanied her shopping may have been imaginary as well.

In all, eight complaints in the qualitative sample were filed by complainants who appear to have been delusional, paranoid or emotionally disturbed.¹ One complainant believed that a police officer monitored all of his movements. Another alleged that police officers came over to view his art collection after it was sold and

¹These complaints differ in kind from other complaints concerning police abuse of mentally ill persons filed by rational complainants. One complainant alleged that her schizophrenic son had been causing a disturbance on a bus. She alleges that he was beaten by an officer at the scene and arrested for disorderly conduct.

that police officers "got made for blowing their cover." Another believed that his parents were trying to kill him and alleged that police officers refused to file his complaints. He wrote several letters, expanding his allegations. He reported that "Officer P. keeps coming over here on a regular basis and his brother just deals dope and keeps his mouth shut." He also reported that he had been "prosecuted with a venom rarely seen outside of Nazi Germany" by his parents. In one letter, he attempted to explain himself:

I was a reasonably intent honors student before this.. started. Now I am a brain-damaged, quasi-vegetable that cannot hold a job. I could have been a brilliant physician except that nobody gave a shit. Since I am dying now it really doesn't matter and I hope that God in his infinite wisdom will provide you all with blood to drink.

f. Complainant Motivations

The cases reviewed in this section revealed a variety of unexpected reasons why citizens filed complaints with the CCRB. Some used the CCRB in a personal dispute against a police officer. Some tried to retaliate against officers who had acted against them. Others sought protection against retaliation by officers. Some used the CCRB in efforts to help them in civil or criminal cases. Some used the CCRB in their own personal psychodramas.

Other complaints revealed still other reasons for filing CCRB complaints. Some complainants were unhappy with the way that their call for police assistance was handled and used the CCRB in an effort to change police response. Others were annoyed by perceived preferential treatment of police officers or high-ranking citizens. Still others complained about rudeness when they were not granted

preferential treatment (doctors, relatives of police officers, persons with phony PBA cards, former officers, auxiliary officers).

* * *

Yet most complainants filed complaints with the CCRB because they seriously believed that they (or others) had been abused by police. They objected to rudeness, violation of their rights and abuse of their person. Some allegations pointed to abuses arising because of particular types of situation (order maintenance, traffic, disputes). Others pointed to perceived system-wide harassment of particular groups. Others pointed to "bad apples" -- individual officers engaged in gratuitous, unprofessional abusive behavior. Others seemed to arise from the police entitlement to use force and the difficulty in determining how much force is "necessary". Yet some allegations could not be explained as either "individual", "situational" or "systemic" in origin.

The quantitative review of the types of complaints that were disposed by the CCRB defines the frequency with which various types of complaints occurred. The qualitative review, on the other hand, serves to illustrate the actual behaviors included within various categories of complaint.

Some frequent complaint types (e.g., discourtesy in traffic situations) proved to be exactly what they sounded like -- perceived officer rudeness to drivers who were stopped for traffic violations. Other frequent complaint types, however -- particularly force in

crime report situations -- differed from our expectations. Within the qualitative sample, this category included few acts of force against individuals arrested for criminal offenses. In several cases, force took place in a crime report situation in which officers responded aggressively to a report of a "crime in progress", but in fact came upon a different type of situation entirely. The victims of alleged force in such situations were often witnesses who attempted to interpret the incident to which the police were called, rather than criminal perpetrators.

As a group, allegations in the qualitative sample were neither as serious nor as substantive as incidents prominent in the media would lead us to expect. Yet most allegations described behavior by police that genuinely angers citizens. It is the job of the CCRB to determine whether or not this behavior could be shown to represent a genuine abuse of professional standards.

Chapter IV

Factors Related to Dispositional Outcomes: Quantitative Analysis

This chapter is both descriptive and analytic. First, it describes the characteristics of complainant-victims, complainant non-victims and the officers who were the subject of complaints (known as subject officers at the CCRB.) Second, it analyzes relationships between various complaint characteristics (complaint type, the situations in which incidents arose, complainant-victim ethnicity, the characteristics of subject officers) and complaint dispositions. Although the previous chapter reported some quantitative information in describing the nature of the CCRB caseload, this chapter contains the bulk of the quantitative analysis included in this report.

The analytic function of the chapter is of central importance in our review of the CCRB dispositional process. Section B of this chapter examines the dispositional outcomes reached in the complaints in the 1984 data set and the factors that influenced dispositional outcomes. For analytic purposes, we have examined case dispositions on two levels. On the first level, each case was classified according to the stage in the dispositional process at which it was closed -- cases dropped because they were withdrawn or because complainants were unavailable, cases conciliated with the agreement of the complainant, or cases disposed, following a full investigation of the charges. On the second level, the full range of dispositions that could be

reached in investigated cases was analyzed (i.e., substantiated, unsubstantiated, unfounded and exonerated.) Both sets of analyses seek to determine the extent to which dispositional outcomes are influenced by various characteristics of the complaint, the complainant-victim or the subject officer.

Before turning to those analyses, however, we examine the characteristics of individuals involved in filed complaints (victims, complainants, officers) and relationships between their characteristics and the types of complaints filed.

A. The Characteristics of Victims, Complainants and Subject Officers

This section presents descriptive information from the 1984 CCRB data tape on individuals involved in police-citizen encounters that gave rise to civilian complaints, on those who file complaints in which they were not themselves the alleged victim, and on the officers against whom complaints were filed. It looks briefly outside the CCRB data set to examine how officers who received complaints in 1984 fit into a departmental context. It also examines relationships between the characteristics of individuals involved in complaints (victim-complainants and subject officers) and the types of complaints filed, and between the characteristics of individuals involved in complaints and the situations in which complaints arose.

1. Characteristics of Victim and Non-Victim Complainants

- a. Description of Victim and Complainant Characteristics

The CCRB data base contains considerable information on the characteristics of alleged victims in situations about which complaints were filed. It also contains some information about complainants who filed complaints about incidents in which other persons were the alleged victims. However, no variable specifically distinguishes between cases in which the victim filed a complaint personally and cases in which the complainant was someone else. Furthermore, because data on both victims and complainants are often missing (not entered or assigned invalid values,) it is difficult to determine what proportion of cases were filed by victims themselves.¹

Yet some variables can be used to identify non-victim complainants, because they present information only on complainants who were not themselves the victim of the alleged incident. For many of these variables, however, a considerable amount of information is missing. Based on examination of the relevant variable with the least amount of missing data (complainant gender, N=1010), we can offer a best estimate of the proportion of complaints filed by victim complainants (84%, 5624.) A large majority of complaints containing information on alleged victims were

¹In this section, we present descriptive data on all cases in which there was information on victims and/or complainants in the 1984 data base. Because there was a great deal of missing information on complainant-victim characteristics, the total numbers reported here are generally less than the total number of complaints filed.

apparently filed by the victims themselves. Our qualitative review suggests that non-victim complainants were generally either unrelated witnesses of the incident or relatives of the victim, who may or may not have witnessed the alleged incident.

Among complaints containing information about victims, only a small proportion of complaints involved two or more victims (6%, 383.)

In many cases (1,453, 22% of all filed complaints), the ethnicity of the victim was not recorded. Among complaints in which there was information on the victim's ethnicity (N=5241), 38 percent of the victims were white, 39 percent were black, 20 percent were Hispanic and three percent were of other ethnic identities.²

Information on the gender of the victim was recorded in most cases. Nearly three-quarters (73%, 4756) of the victims of alleged misconduct were male; a quarter (27%, 1,755) were female.

Information on the age of the victim was missing in more than half of the complaints. In cases in which the victim's age was recorded, over half (55%, 1,719) were under 30. Yet there is too much missing data to determine whether the age distribution of victims in cases containing information on age is representative of all victims of alleged misconduct.

²According to the 1980 census, the ethnic distribution of New York City in 1980 was 52 percent white, 24 percent black, 20 percent Hispanic and four percent other (New York City Department of City Planning, Demographic Profile.) This suggests that blacks were over-represented, Hispanics were proportionately represented and whites were under-represented in the group of alleged victims of police misconduct reported in CCRB complaints.

There was also a considerable amount of missing data on most characteristics of non-victim complainants, with the exception of gender. Non-victim complainants were almost equally divided between females and males (female, 46%, 463; male, 54%, 547.) This contrasts with the gender of alleged victims, described above, who were predominantly male.

b. Relationships between the Ethnicity of the Victim and Complaint Characteristics

The ethnicity of victims was significantly related to the type of complaint filed, the type of force and abuse allegations contained in complaints, and the type of situation in which the alleged incident arose.

The types of complaints filed at the CCRB varied considerably according to the ethnicity of the alleged victims. Table 4.1 shows that complaints involving minority victims were more likely to contain allegations of unnecessary use of force (Hispanics, 66%; blacks, 60%) than were complaints involving white victims (46%). There was little difference between the ethnic groups in the proportion of complaints in which the most serious allegation involved abuse of authority. White victims were more likely to identify discourtesy/ethnic slur as the most serious allegation (26%) than were minority victims (blacks, 15%; Hispanics, 10%.)

TABLE 4.1
Complaint Type by Victim Ethnicity

Complaint Type	Victim Ethnicity			All Victims
	White	Black	Hispanic	
Force	46% (816)	60% (1072)	66% (611)	56% (2499)
Abuse	28 (497)	25 (441)	24 (221)	26 (1159)
Discourtesy/ Ethnic Slur	26 (460)	15 (264)	10 (91)	18 (815)
Total	100% (1773)	100% (1777)	100% (923)	100% (4473)
Missing:				1168
Total Disposed Complaints:				5641

$\chi^2=164.49$, $DF=4$, $p>.001$

The ethnicity of the alleged victim was also related to the type of force alleged, although the differences were not great. Table 4.2 shows that complaints in which blacks were alleged to be the victims of police abuse of force were more likely to involve misuse of the officer's service revolver (15%) than force complaints involving other ethnic groups (whites, 11%; Hispanics, 10%.) Within the group of force complaints, whites were somewhat more likely to be involved in the less serious forms of alleged force (push/shove, "other") than other groups, but the differences are relatively small.

Victim ethnicity was strongly related to the type of alleged abuse of authority. Table 4.3 shows that complaints involving white victims were more likely to allege abuse of enforcement powers (improperly issued summons or improper arrest: 50%) than complaints involving minority victims (blacks, 39%; Hispanics, 38%.) In turn, complaints involving minority victims were more likely to contain allegations of wrongful search (blacks, 22%; Hispanics, 21%) than were complaints involving white victims (8%.) The proportion of various groups involved in other types of alleged abuse does not differ greatly.

Analysis of the relationship between the type of situation in which alleged incidents took place and victim's ethnicity helps explain the high proportion of abuse of enforcement allegations among abuse allegations involving white victims. Table 4.4 shows that complaints involving white victims were more likely to arise in traffic situations (38%) -- which give rise to a high

TABLE 4.2
Type of Force Allegation by Victim Ethnicity

Type of Force	Victim Ethnicity			
	White	Black	Hispanic	All Victims
Any Gun Allegation	11% (82)	15% (160)	10% (60)	12% (302)
Punch/kick/club/ stick	37 (288)	39 (407)	43 (255)	39 (950)
Push	32 (251)	29 (307)	29 (175)	30 (733)
Other	20 (157)	17 (176)	18 (107)	18 (440)
Total	100% (778)	100% (1050)	100% (597)	99% (2425)
Missing: Total Force Allegations:				619 3044

$\chi^2=13.94$, $DF=6$, $p>.01$

TABLE 4.3
Type of Abuse Allegation by Victim Ethnicity

Type of Abuse Allegation	Victim Ethnicity			
	White	Black	Hispanic	All Victims
Abuse of Enforcement Powers	50% (405)	39% (350)	38% (160)	43% (924)
Wrongful Search	8 (68)	22 (200)	21 (91)	17 (359)
Improperly Seized Property	2 (20)	3 (29)	3 (15)	3 (64)
Other	39 (311)	35 (315)	38 (169)	37 (801)
Total	99% (810)	99% (894)	100% (444)	100% (2148)
Missing: Total Abuse Allegations:				756 2904

$\chi^2=72.26$, $DF=6$, $p>.001$

TABLE 4.4
 Situation by Victim Ethnicity

Situation	Victim Ethnicity			
	White	Black	Hispanic	All Victims
Traffic	38% (700)	22% (422)	24% (237)	29% (1359)
Crime Report	15 (271)	25 (479)	23 (226)	21 (976)
Dispute	18 (341)	19 (362)	19 (188)	19 (891)
Patrol	13 (239)	17 (312)	18 (173)	15 (724)
Other	17 (315)	16 (311)	16 (154)	16 (780)
Total	101% (1866)	99% (1886)	100% (978)	100% (4730)
Missing:				911
Total Disposed Complaints:				5641

$\chi^2=155.05$, $DF=8$, $p<.001$

proportion of abuse of enforcement allegations (see Chapter III) -- than were complaints involving minority victims (blacks, 22%; Hispanics, 24%.) Complaints involving minority victims were more likely to arise in crime report situations (blacks, 25%; Hispanics, 23%) than were complaints involving white victims (15%.)

The over-representation of white victims in both enforcement abuse complaints and in traffic situations points to a distinctive pattern among complaints involving white victims. Such complaints were less likely to involve force, and more likely to involve only discourtesy, than the complaints of minority victims. Many complaints appear to stem from traffic encounters between the police and white drivers.

Complaints involving minority victims, most of which were filed by minority complainants, were generally more serious than those filed by white complainants -- that is, more likely to involve force, more likely to involve serious types of force, and more likely to involve relatively serious allegations of abuse of authority. The situations in which these complaints arose (disproportionately "crime report" and "patrol" situations) also differed substantially from the situations which gave rise to complaints involving white victims and complainants. Indeed, the disproportionate prevalence of crime report situations may explain the relatively high frequency of improper use of service revolver allegations and improper search allegations among minority victims.

2. Characteristics of Subject Officers

a. The Departmental Context

In many respects, the characteristics of officers who received civilian complaints in 1984 differed from the characteristics of officers who did not.³ To compare these two groups, we analyzed data from the Police Department's computerized management information system (MIS), with respect to the assignments, job experience and gender of officers who received civilian complaints in 1984 to those who did not. This section summarizes these findings (see Appendix C for the detailed data description); it also compares broadly the ethnicity and rank of officers who received complaints to the distributions of ethnicity and rank within the department as a whole.

The analysis of MIS data showed that the likelihood of receiving a civilian complaint was related to job experience and gender. Complaints were filed disproportionately against male officers and against officers with five or fewer years on the job.

The analysis also showed that officers' assignments were related to the likelihood of having complaints filed against them. Officers assigned to the Traffic and Highway Division received far more complaints per officer per year than officers working in

³The majority of 1984 civilian complaints involved only one officer (61%, 3982.) Almost a third of the complaints (29%, 1902) involved two subject officers; ten percent (602) involved three or more subject officers. In complaints containing allegations against more than one officer, we classified officer characteristics only for the first officer listed in the complaint.

precinct commands. Officers assigned either to the Traffic Division or to precincts, in turn, received considerably more complaints per officer per year than officers in other assignments (borough task forces, neighborhood stabilization units, detective areas.) The influence of job assignment was independent of job experience. The relationship between assignment and the frequency of civilian complaints probably reflects differences in the routine amount of contact, especially confrontational contact, with the general public entailed in various assignments.

Comparisons of the ethnicity of officers who received civilian complaints in 1984 with the ethnic distribution of the Department in 1984 shows that officer ethnicity was not strongly related to receiving a civilian complaint. The distribution of the ethnicity of subject officers in the 1984 CCRB data set closely parallels the 1984 ethnic distribution of the Department as a whole. In the 1984 CCRB data set, 81 percent of subject officers were white (4343), 11 percent black (581), seven percent Hispanic (394), and less than one percent other (42.) In 1984, the ethnic composition of the department as a whole was virtually identical--81 percent white, ten percent black, eight percent Hispanic, and less than one percent other (Zuccotti, 1987.)

Comparison of the characteristics of officers who received complaints with the composition of the Department as a whole reveals that lower ranking officers (i.e., those who have the most face-to-face contact with the public) were far more likely to receive civilian complaints than their superiors. The over-

whelming majority of complaints filed in 1984 were filed against personnel occupying the lower ranks of the department -- police officers (91%, 5792) and detectives (3%, 204.) Only six percent (368) of the 1984 CCRB complaints were filed against officers of higher rank, although higher ranking officers comprise 15 percent of the department (Zuccotti, 1987.)

b. Subject Officer Characteristics and Complaint Characteristics

We also examined relationships between various characteristics of the subject officers and the type of complaint filed against them. There was no apparent relationship between the ethnicity of the officer and the type of CCRB complaint filed. There were, however, significant relationships between complaint type and both officer gender and years of service.

Table 4.5 shows that female officers who received CCRB complaints were considerably less likely to be accused of improper use of force (38%) than were male subject officers (55%). Not only were female officers less likely to have complaints filed against them at all, they also were the subject of less serious complaints, when complaints were filed.

Analysis of 1984 CCRB data also showed that subject officers who had 16 or more years of service received a smaller proportion of force complaints than subject officers with fewer years of

TABLE 4.5
Complaint Type by the Gender of the Subject Officer

Complaint Type	Officer Gender		All Subject Officers
	Male	Female	
Force	55% (2780)	38% (94)	54% (2874)
Abuse	27 (1388)	34 (84)	28 (1472)
Discourtesy/ Ethnic Slur	18 (921)	27 (69)	19 (990)
Total	100% (5089)	99% (247)	101% (5336)
Missing:			305
Total Disposed Complaints:			5641

$\chi^2=28.16$, $DF=2$, $p<.001$

service. Table 4.6 shows little difference in the type of complaints filed against various groups of subject officers with up to 15 years of service. Only among subject officers with 16 years or more of service did the proportion of force complaints fall below 50 percent and the proportion of discourtesy complaints rise above 25 percent. Thus, while officer experience was related to the likelihood of receiving CCRB complaints in the overall departmental context, it was not related to the type of complaints filed except among subject officers with very long experience.

In addition to our examination of relationships between officer characteristics and complaint type, we examined the relationship between the ethnicity of the subject officer and the ethnicity of the victim of alleged misconduct. This analysis is of some relevance to the accusation that police misconduct toward citizens is largely a function of racist attitudes among the predominantly white police force. Of course, we can say nothing of those instances of police abuse that are not reported to the Police Department. Yet, if that contention were so, it would be reasonable to expect that complaints registered against white officers would disproportionately involve minority victims.

To the contrary, Table 4.7 shows that a plurality of complaints against white officers involved white victims, whereas a plurality of complaints against black officers involved black victims. Although the plurality of victims in complaints against Hispanic officers were black, more than a third of those victims

TABLE 4.6
Complaint Type by Years of Service

Complaint Type	Years of Service						All Subject Officers
	1	2	3	4-10	11-15	16+	
Force	56% (437)	55% (669)	56% (419)	54% (300)	51% (302)	44% (288)	53% (2495)
Abuse	29 (224)	27 (330)	30 (219)	27 (147)	28 (205)	29 (189)	28 (1314)
Discourtesy/ Ethnic Slur	16 (125)	18 (216)	14 (104)	19 (105)	21 (156)	27 (179)	19 (885)
Total	101% (786)	100% (1215)	100% (742)	100% (552)	100% (743)	100% (656)	100% (4694)
						Missing: Total:	947 5641

$\chi^2=56.08$, $DF=19$, $p<.001$

TABLE 4.7
Victim Ethnicity by Officer Ethnicity

Victim Ethnicity	Officer Ethnicity			All Subject Officers
	White	Black	Hispanic	
White	42% (1502)	33% (161)	25% (79)	39% (1742)
Black	39 (1425)	49 (239)	42 (134)	41 (1789)
Hispanic	19 (688)	18 (85)	34 (109)	20 (882)
Total	100% (3615)	100% (485)	101% (322)	100% (4422)
Missing:				1219
Total Disposed Complaints:				5641

$\chi^2=71.49$, $DF=4$, $p<.001$

were Hispanic (34%) -- a proportion almost twice as large among Hispanic officers as among white and black officers (19% and 13%, respectively.)

The table suggests a tendency for subject officers and their alleged victims to be of the same ethnic affiliation. Black and Hispanic subject officers received a greater proportion of complaints involving minority victims (67% and 76%, respectively) than white subject officers (58%). These statistical patterns probably reflect a proportionally heavier concentration of police officers, especially minority police officers, in minority neighborhoods. At the same time, they offer little support for the belief that racism among police officers explains much of the alleged police abuse of the citizenry, at least of the type reported to the CCRB.

B. Factors Related to Dispositional Outcomes

In this section, we analyze relationships between various factors described so far -- complaint type, other complaint characteristics, the situations in which alleged encounters took place, the ethnicity of alleged victims, and the characteristics of subject officers -- and the dispositional outcomes of complaints.

In Chapter II, we described the CCRB dispositional process as having three general stages -- "drop out", conciliation and investigation. In the 1984 CCRB data set, a large proportion of complaints in which outcomes were reported (42%, 2383) were closed without investigation, or "dropped out" of the investiga-

tive process. Another large group of complaints (39%, 2202) were conciliated and, therefore, not subjected to full investigation. Fewer than one out of five (19%, 1056) of disposed CCRB cases reached the third stage of the dispositional process, full investigation.

Complaints that drop out do so largely because complainants withdraw, cannot be reached or will not co-operate in the dispositional process.⁴ The likelihood of "drop out" may be related to complainant characteristics and/or the availability of information that makes it possible to contact the complainant (e.g., in some cases, a summons or arrest report provides additional complainant/victim identification and makes the complainant more accessible).

Whether or not a complaint is conciliated depends upon the characteristics of both the complainant and the complaint. In theory at least, a conciliation offer will not be made if allegations are relatively serious, if there is enough evidence potentially available to reach a definitive disposition, or if the subject officer has an extensive history of prior CCRB complaints. All these factors affect the likelihood that the CCRB will offer to conciliate the case. Yet complainants also have

⁴For analytic purposes, we collapsed the various categories of "drop-out" into a single variable. We do, however, have disaggregated data on various types of drop-out for the total number of allegations filed. Analysis showed that 41% of allegations that dropped out did so because complainants were unavailable; 27%, because complaints were formally withdrawn; 27%, because complainants were uncooperative; and 5%, because subject officers could not be identified.

the right to refuse to conciliate, and to insist that their complaint be investigated. Therefore, both complaint and complainant characteristics may be related to the extent of conciliation.

Theoretically, the outcomes of investigated complaints -- substantiated, unsubstantiated, unfounded and exonerated -- should be more strongly related to the evidentiary strength of the case and the nature of the alleged incidents than to the characteristics of involved parties. An allegation can be substantiated only if there is enough evidence to determine that the alleged incident occurred and that it constituted improper behavior on the part of the officer. If the evidence suggests that the incident did not occur, the allegation will be disposed as unfounded. If the incident occurred, but was not a violation of proper procedure, the allegation will be exonerated. If the evidence is insufficient to determine either whether or not the incident happened or whether or not it was improper, the allegation will be disposed as unsubstantiated.

Only a small proportion of all complaints filed in the 1984 data set were disposed clearly in favor of the complainant (substantiated: 3%, 150) or in favor of the subject officer (unfounded, 2%, 87; exonerated, 3%, 168.) The relatively low proportion of definitive dispositions was partly because so many complaints either dropped out or were conciliated. Yet even among complaints that were investigated, many (651, 62%) were disposed as unsubstantiated. While this disposition obviously

does not favor the complainant, neither does it definitively resolve the allegations in the favor of the subject officer.

In the following analyses, we explore relationships between complaint characteristics and dispositional outcomes in three distinct ways. First, we examine the extent to which complaints "penetrate" the dispositional process -- whether they drop out, are conciliated, or reach investigation and the factors that affect these gross dispositional outcomes.⁵

Then, we remove "dropped out" cases from the base and examine the outcomes of those cases which remain. This strategy permits us to study the manner in which conciliation is used when only those cases in which it could be considered are examined.

Finally, we look at the outcomes of complaints that are fully investigated. It is here that we can explore whether the CCRB process operates differently for specific groups of complainants and/or officers, by examining whether particular groups are more or less likely to have their complaints substantiated or exonerated.

⁵We would expect complainant-victim characteristics to be related to the extent of "drop out", because "dropping out" of the CCRB process depends largely upon the complainant's actions. We would also expect complaint seriousness to be related to the extent of investigation, because less serious cases are relatively likely to be conciliated, if they don't drop out.

In what follows, we look first at relationships between dispositional outcomes⁶ and complaint characteristics (complaint type, type of force allegation, injury allegations, the type of alleged abuse.) Next we turn to relationships between disposi-

⁶We categorized the disposition of complaints according to the disposition of the most serious allegation within the complaint. The CCRB data tape reports the disposition of each coded allegation within a complaint, rather than the disposition of the complaint as a whole. If complaints "drop out" or end in conciliation, all allegations are generally disposed in the same way, and the disposition of the complaint is easy to categorize. However, if complaints are investigated, some allegations may be substantiated while others are unsubstantiated.

We considered two methods of categorizing the disposition of complaints -- according to the disposition of the most serious allegation in the complaint, or according to the most serious disposition of any allegation. Analysis showed very little difference between the two approaches (see Appendix Table D1.) Of 1056 investigated complaints, 82 (8%) would have been categorized differently if we defined complaint disposition according to the most serious disposition of any allegation, rather than the disposition of the most serious allegation. In most cases in which there was a difference, the most serious allegation had been unsubstantiated (77) and a less serious allegation was either substantiated or exonerated.

Because we have defined complaints according to the most serious allegation contained in the complaint, we defined the disposition of investigated complaints in terms of the disposition of the most serious allegation within the complaint. Therefore, when we speak of an investigated force complaint as unsubstantiated, we mean that the force allegation was unsubstantiated; accompanying allegations may have been otherwise disposed.

In our analysis, we were more interested in how the CCRB process deals with complaints as a whole rather than how it handles the individual allegations contained within complaints. However, we did a series of analyses using the allegation rather than the complaint as the unit of analysis. There was little difference between the complaint-based analyses and the allegation-based analyses with respect to the factors that influenced dispositional outcomes. Allegation-based tables are presented in Appendix D.

tional outcomes and the situation in which the complaint arose, the ethnicity of the victim/complainant, and the characteristics of officers who were the subject of complaints.

1. Complaint Characteristics and Dispositional Outcomes

a. Complaint Characteristics and the Dispositional Stage Reached

Complaint characteristics (the most serious allegation type; the type of force alleged; the type of alleged injury, if any) provide a measure of the relative seriousness of complaints disposed by the CCRB. Analysis shows that complaint characteristics (particularly complaint type) are significantly related to all aspects of the dispositional process -- the dispositional stage that complaints reached; the likelihood of conciliation among complaints that did not "drop out"; and the outcome of investigation among cases that were investigated.

When complaints were classified according to the most serious allegation (force/abuse/discourtesy-ethnic slur) within the complaint, complaint seriousness appeared to be directly related to the likelihood of investigation (see Table 4.8.) Force complaints were far more likely to be investigated (23%) than discourtesy/ethnic slur complaints (8%); abuse complaints occupied an intermediate position (17% investigated).

TABLE 4.8
 Dispositional Stage by Complaint Type

Dispositional Stage	Complaint Type			
	Force	Abuse	Discourtesy/ Ethnic Slur	All Complaints
Drop-Out	48% (1466)	38% (586)	32% (331)	42% (2383)
Conciliation	28 (867)	46 (714)	60 (621)	39 (2202)
Investigation	23 (711)	17 (259)	8 (86)	19 (1056)
Total	99% (3044)	101% (1559)	100% (1038)	100% (5641)

$\chi^2=378.67$, $DF=4$, $p<.001$

TABLE 4.9
 Percent of Remaining Cases Conciliated,
 Net of Dropout, by Complaint Type

	Percent Conciliated	N Remaining after Dropout
Force	55%	1578
Abuse	73%	9731
Discourtesy	.88%	707

The greater likelihood of investigation for more serious complaints was not a product of greater complainant involvement in serious cases. Force complaints were considerably more likely to drop out of the CCRB process (48%) than other complaints (abuse, 38%; discourtesy/ethnic slur, 32%) in spite of the fact that they were more serious. Complaint seriousness was inversely related to the likelihood of dropping out, for reasons that are not immediately apparent.

To some extent, the disproportionate "dropping out" of force complaints may be related to differences in the types of situation in which these complaints arise and/or the characteristics of those who file these complaints. Force complaints were more likely to have arisen in "crime report" situations than abuse or discourtesy complaints, which were, in turn, more likely to arise in traffic situations. It is probable that a larger proportion of complainants in traffic cases were of a stable, middle-class background than were complainants in crime report cases. This may have made them more accessible after complaints had been filed and less likely to drop out of the CCRB process. Furthermore, traffic complaints were frequently associated with traffic summonses, which provided additional identifying information to investigators.

The fact that more serious complaints were more likely to be investigated than others seems to have resulted from the decision to withhold the offer of conciliation rather than from the way in which complainants behaved. Table 4.9 shows that complaint seriousness was inversely related to the likelihood of being con-

ciliated, after complaints that dropped out are removed. Remaining discourtesy complaints were far more likely to be conciliated (88%) than were remaining abuse complaints (73%) or remaining force complaints (55%).) If complaints did not drop out of the CCRB process, conciliation was offered and accepted far more frequently in less serious complaints.

The influence of complaint seriousness on the dispositional stage reached is also apparent if we examine the influence of injury allegations in force complaints only. Table 4.10 shows that there was little difference between force complaints containing injury allegations and force complaints not containing such allegations in the extent to which complainants dropped out of the CCRB process. Yet force complaints containing injury allegations were far less likely to be conciliated (17%) than force complaints not alleging injury (34%) and were, in turn, far more likely to be investigated (34%) than other force complaints (17%).

The influence of complaint seriousness on dispositional stage also extends to the type of injury alleged (see Appendix Tables D2-D3.) Among force complaints alleging injury, those in which injuries were classified as unspecified or "other" were less likely to be investigated (26% and 29% respectively) than those alleging bruises or minor lacerations (37% each) or more serious injuries (stitches, internal injuries, fractures, gun shot wounds: 54%).)

TABLE 4.10

Dispositional Stage Reached by Injury Allegation at Intake
(Force Complaints Only)

Dispositional Stage	Intake Injury Allegation		
	Yes	No	All Force Complaints
Drop Out	48% (474)	49% (801)	49% (1275)
Conciliation	17 (170)	34 (561)	28 (731)
Investigation	34 (334)	17 (287)	24 (621)
Total	99% (978)	100% (1649)	101% (2627)
Missing: Total Force Complaints:			417 3044

$\chi^2=134.05$, $DF=2$, $p<.001$

The proportion of accepted conciliation offers in force complaints that did not drop out showed a strong inverse relationship to the fact and type of injury allegation as well (see Table D3). If no injury was reported at intake, 66 percent of remaining complaints were conciliated; if an injury was reported, the extent of conciliation in remaining complaints declined markedly, according to the seriousness of the alleged injury (unspecified injury, 43%; other, 38%; bruise, 37%; minor laceration, 28%; serious injury, 3%.)

The influence of complaint seriousness on the CCRB dispositional process is also apparent in the relationship between the type of force allegation and the dispositional stage reached (see Tables 4.11 and 4.12.) The most serious types of force allegations (gun allegations; punch/kick/club/stick allegations) were more likely to be investigated (26% and 29% respectively) than the less serious types of force allegation (push/shove and "other", 18% each.) Again, the likelihood of investigation appeared to be a product of differences in the extent of accepted conciliation offers, net of complaints that dropped out. Less serious complaints were more likely to be conciliated (other, 65%; push/shove, 66%) than more serious complaints (gun allegations, 54%; push/shove/stick/club, 39%.)

b. Complaint Characteristics and the Outcomes of Investigated Complaints

Some complaint characteristics were significantly related to both the likelihood that complaints would be investigated and to

TABLE 4.11

Dispositional Stage by Type of Force Allegation
(Force Complaints Only)

Dispositional Stage	Type of Force Alleged				
	Gun	Punch/Kick	Push/Shove	Other	All Force
Drop Out	44% (159)	52% (593)	45% (407)	49% (272)	49% (1431)
Conciliation	30 (110)	18 (208)	36 (327)	33 (186)	28 (831)
Investigation	26 (93)	29 (328)	18 (166)	18 (101)	23 (688)
Total	100% (322)	99% (1129)	99% (900)	100% (559)	100% (2950)
Missing: All Force Allegations:					94 3044

$\chi^2=105.06$, $DF=6$, $p<.001$

TABLE 4.12

Percent of Remaining Force Cases Conciliated,
Net of Dropout, by Type of Force

	Percent Conciliated	N Remaining after Dropout
"Other"	65%	287
Push/Shove	66%	493
Punch/Kick/ Club/Stick	39%	536
Gun	54%	203

the outcomes of those investigations. Among investigated complaints, the outcomes of various complaint types (as defined by FADE categories) differed significantly. Differences in outcome could not be explained simply by differences in the relative seriousness of complaints, although they may have sprung partly from differences in the extent of the evidentiary pre-screening to which complaints of different degrees of seriousness were subjected.

Table 4.13 shows that the outcomes of investigated discourtesy complaints differ significantly from the outcomes of investigated force and abuse complaints. Discourtesy complaints were somewhat more likely to be fully resolved than force or abuse complaints: substantiated, 20%, 14% and 12%, respectively; unfounded⁷, 21%, 7% and 6% respectively.

⁷In unfounded complaints, there is enough evidence to suggest that the allegation did not happen as described -- either a witness who corroborates the subject officer's account or some evidence that reveals that the police-citizen encounter did not occur.

TABLE 4.13

Investigative Outcome by Complaint Type
(Investigated Cases Only)

Investigative Outcome	Complaint Type			All Investigative Cases
	Force	Abuse	Discourtesy	
Substantiated (Favors the Complainant)	14% (101)	12% (32)	20% (17)	14% (150)
Unsubstantiated (Neutral)	65 (464)	54 (141)	53 (46)	62 (651)
Unfounded	7 (48)	8 (27)	21 (18)	8 (87)
Exonerated (Favors the Subject Officer)	14 (98)	25 (65)	6 (5)	16 (163)
Total	100% (711)	99% (259)	99% (86)	100% (1056)

$\chi^2=47.11$, $DF=6$, $p<.001$

But they were considerably less likely to be exonerated than other complaints (6%, compared to 14% of force and 25% of abuse.) Exoneration is also a definitive disposition, but the qualitative research revealed that discourtesy allegations could rarely be exonerated, because discourtesy was never seen as an appropriate response to a police/citizen encounter. Although the use of force or enforcement powers may be found justified by situational exigencies, discourtesy does not correspond to established guidelines. (In fact, some of the five "exonerated" discourtesy complaints were found to have been improperly coded when we sought examples of exonerated discourtesy for the qualitative sample.)

The fact that discourtesy complaints also had a greater likelihood of being ruled substantiated or unfounded (i.e., definitive dispositions) than other complaints may be related to the greater need for evidentiary strength among investigated non-serious complaints. It is likely that many discourtesy complaints would have been conciliated if they did not provide sufficient evidence to permit definitive determination. The decision to investigate was determined, in most cases, by the fact that such evidence was available.

In addition to the differences between investigated discourtesy complaints and other investigated complaints, there were also marked differences in the extent to which investigated abuse complaints were exonerated (25%) compared to force complaints (14%). Both force and abuse allegations are subject to exonera-

tion: force may be deemed necessary to achieve control in a police/citizen encounter; alleged abuse (search, the issuing of a summons, a disorderly conduct arrest) may represent a legal and permissible police response to a particular situation. Apparently, investigated alleged abuse is more frequently exonerated than investigated alleged force.⁸

To determine which types of force and abuse were most likely to be exonerated, we also looked at relationships between the dispositions of investigated force and abuse allegations and the type of force and abuse alleged. The type of alleged abuse was not significantly related to dispositional outcomes.

The type of force alleged, on the other hand, was significantly related to the outcome of investigated force allegations (see Table 4.14.) There was little difference in the extent to which force allegations of various types were substantiated. The difference in outcomes rested largely on the greater likelihood of exoneration in allegations of misuse of service revolvers (30%) compared to other types of force

⁸The apparently greater likelihood of unsubstantiated findings in force complaints is in part a product of the way in which we defined complaint disposition -- i.e., in terms of the disposition of the most serious allegation. We also looked at the disposition of complaints defined in terms of the most serious disposed allegation within the complaint. Using this method there was little difference between force complaints and other complaints in the extent to which complaints were unsubstantiated. Other differences between complaint types in the dispositional outcomes of investigated complaints remained when this alternative definition of complaint disposition was employed. (See Appendix D4 for a comparison of complaint-based and allegation-based analyses of investigative outcome and FADE categories.)

TABLE 4.14

Investigative Outcome by Type of Alleged Force
(Investigated Force Cases Only)

Investigative Outcome	Type of Force				All Force Complaints
	Gun	Punch/ Kick	Push	Other	
Substantiated (Favors the Complainant)	11% (10)	15% (50)	13% (21)	14% (14)	14% (95)
Unsubstantiated (Neutral)	55 (51)	68 (224)	72 (120)	58 (59)	66 (454)
Unfounded	4 (4)	7 (22)	4 (7)	14 (14)	7 (4)
Exonerated (Favors the Subject Officer)	30 (28)	10 (32)	11 (18)	14 (14)	13 (92)
Total	100% (93)	100% (328)	100% (166)	100% (101)	100% (688)
Missing:					23
Total Investigated Force:					711

$\chi^2=38.52$, $DF=9$, $p<.001$

(push/shove, 11%; punch/kick/club/stick, 10%; "other", 14%.) It should be remembered that many allegations of misuse of service revolvers alleged pointed guns or guns out of holsters -- incidents which clearly may terrify and/or anger citizens, but which may also be procedurally justified in particular situations.

2. The Situations in which Complaints Arose and Dispositional Outcomes

a. Situation and the Dispositional Stage Reached

The situations in which complaints arose were also significantly related to the dispositional stage of the CCRB process that complaints reached. Table 4.15 shows that traffic complaints were far less likely to drop out of the dispositional process (26%) than complaints that arose in other situations (crime report, 44%; dispute, 44%; patrol, 56%; and "other", 52%). Complaints arising in patrol situations appeared to be particularly likely to drop out of the dispositional process -- more than twice as likely as complaints arising in traffic situations.

Traffic complaints also differed from other complaints in the extent to which they were conciliated (55%, compared to crime report, 30%; dispute, 39%; patrol, 32%; "other", 31%). These relatively small differences among non-traffic complaints in the extent of conciliation show a somewhat different pattern, if we look at the proportion of conciliated complaints that remain after subtracting those that dropped out (see Table 4.16.) From this perspective, traffic complaints were still more likely to be conciliated (75%) than other complaints. Yet remaining patrol

TABLE 4.15
Dispositional Stage by Situation

Dispositional Stage	Situation					All Situations
	Traffic	Crime Report	Dispute	Patrol	Other	
Drop Out	26% (422)	44% (469)	44% (447)	56% (505)	52% (484)	42% (2327)
Conciliation	55 (885)	30 (320)	39 (400)	32 (286)	31 (289)	39 (2180)
Investigation	19 (299)	26 (281)	17 (177)	12 (112)	18 (165)	19 (1034)
Total	100% (1606)	100% (1070)	100% (1024)	100% (903)	101% (938)	100% (5541)
Missing: Total Disposed Complaints:						100 5641

$\chi^2=368.58$, $DF=8$, $p<.001$

TABLE 4.16

Percent of Remaining Complaints Conciliated,
Net of Dropout, by Situation

Situation	Percent Conciliated	N Remaining after Dropout
Traffic	75%	1184
Patrol	72%	398
Dispute	69%	577
"Other"	64%	454
Crime Report	53%	602

and dispute complaints also had a relatively high likelihood of being conciliated (72% and 69%.) Complaints that arose in crime report situations, on the other hand, had a markedly lower likelihood of conciliation than other complaints (53%) if they did not drop-out.

These situation-based differences in patterns of dropping out and being conciliated led to differences in the extent to which complaints that arose in various situations were investigated. Complaints arising in crime report situations were conciliated infrequently and were more likely to be investigated than other complaints (26%). Complaints arising in patrol situations, on the other hand, dropped out frequently and were relatively unlikely to be investigated (12%). Complaints arising in traffic, dispute and other situations did not differ greatly from each other in terms of the extent of investigation (from 17 to 19%.)

Situation-based differences in the dispositional stage reached cannot be explained entirely by differences in the kinds of complaints they tend to generate. If the type of complaint is controlled for (see Tables 4.17-4.19), some basic differences between situations remain in the dispositional stage reached by the complaint. In force, abuse and discourtesy complaints, complaints arising in traffic situations drop out in smaller proportions than those arising in other situations (force, 30%; abuse, 25%; discourtesy, 23%) -- particularly in contrast to complaints arising in patrol (force, 60%; abuse, 51%; discourtesy, 43%) and

TABLE 4.17, 4.18, 4.19
 Dispositional Stage Reached by Situation
 (Controlling for Complaint Type)

Table 4.17: Force Complaints

Dispositional Stage	Situation					All Situations
	Traffic	Crime Report	Dispute	Patrol	Other	
Drop Out	30% (175)	47% (342)	49% (303)	60% (336)	55% (285)	48% (1441)
Conciliation	41 (236)	24 (172)	29 (182)	26 (144)	24 (127)	29 (861)
Investigation	29 (167)	29 (213)	21 (133)	14 (78)	21 (107)	23 (598)
Total	100% (573)	100% (727)	99% (618)	100% (558)	100% (519)	100% (3000)
Missing:						44
Total Force Complaints:						3044

 $\chi^2=143.92$, DF=8, $p<.001$

Table 4.18: Abuse Complaints

Dispositional Stage	Situation					All Situations
	Traffic	Crime Report	Dispute	Patrol	Other	
Drop Out	25% (150)	41% (96)	37% (82)	51% (126)	50% (108)	37% (562)
Conciliation	60 (363)	34 (79)	45 (104)	36 (87)	33 (71)	46 (704)
Investigation	15 (92)	25 (57)	17 (38)	13 (32)	16 (35)	17 (254)
Total	100% (605)	100% (232)	100% (224)	100% (245)	99% (214)	100% (1520)
Missing:						39
Total Abuse Complaints:						1559

 $\chi^2=107.40$, DF=8, $p<.001$

Table 4.19: Discourtesy Complaints

Dispositional Stage	Situation					All Situations
	Traffic	Crime Report	Dispute	Patrol	Other	
Drop Out	23% (97)	28% (31)	34% (62)	43% (43)	44% (31)	32% (324)
Conciliation	68 (286)	62 (69)	63 (114)	55 (35)	44 (31)	60 (613)
Investigation	9 (40)	10 (11)	3 (6)	2 (2)	11 (23)	8 (82)
Total	100% (423)	100% (111)	100% (182)	100% (100)	99% (205)	100% (1021)
Missing:						17
Total Discourtesy Complaints:						1038

 $\chi^2=52.32$, DF=8, $p<.001$

"other" situations (force, 55%; abuse, 50%; discourtesy, 44%.) Given the variables used in this analysis, it appears that both complaint type and the situation in which complaints arise have an independent relationship to the extent complaints are dropped.

These situational differences in patterns of drop-out may be related to the extent of documentation associated with various situations. Traffic complaints (low drop-out) are frequently accompanied by summonses which provide additional identifying information about complainants. Patrol situations (high drop-out) are often without enforcement activity. Victims of alleged misconduct in patrol situations appear to be particularly difficult to reach.

Situation also appears to have an independent influence on the extent of investigation. Complaints arising in crime report situations had a relatively high likelihood of being investigated for all complaint types (force, 29%; abuse, 25%; discourtesy, 10%), in contrast to complaints arising in patrol situations, which had a relatively low likelihood of being investigated for all complaint types (force, 14%; abuse, 13%; discourtesy, 2%.) Even if the most serious allegation was discourtesy, crime report complaints were more likely to be investigated than patrol complaints.

b. Situation and the Outcomes of Investigated Complaints

There is also a significant relationship between the situations in which complaints arose and the outcomes of investigated

complaints. Table 4.20 shows that complaints that arose in traffic and crime report situations were less likely to be disposed as unfounded (4% and 6%, respectively) than complaints that arose in other situations (dispute, 10%; patrol, 10%; other, 16%.

Furthermore, crime report complaints also appear to be somewhat more likely to be exonerated (20%) than complaints arising in other situations, particularly disputes or patrol (13% each.) It is possible that the fact of a reported crime may increase the documentation available in the case and may make certain kinds of police behavior (e.g., drawn weapon) justifiable.

Overall, there was little difference according to situation in the extent to which investigated complaints had outcomes which favored the subject officer (the sum of unfounded and exonerated dispositions.) When these categories are collapsed, the relationship between situation and investigative outcomes is no longer significant.

The relationship between the situations in which complaints arose and the outcomes of investigated complaints does not depend on the differences in the types of complaints filed after various situations. We have seen that force complaints were underrepresented in traffic situations. Yet, the relationship between situations and outcomes in investigated complaints remains

TABLE 4.20
Investigative Outcome by Situation
(Investigated Cases Only)

Investigative Outcome	Situation					All Situations
	Traffic	Crime Report	Dispute	Patrol	Other	
Substantiated (Favors the Complainant)	16% (47)	12% (34)	12% (22)	20% (22)	13% (21)	14% (145)
Unsubstantiated (Neutral)	65 (193)	62 (173)	64 (114)	57 (64)	57 (94)	62 (658)
Unfounded	4 (11)	6 (18)	10 (18)	10 (11)	16 (27)	8 (85)
Exonerated (Favors the Subject Officer)	16 (48)	20 (56)	13 (23)	13 (15)	14 (23)	16 (165)
Total	101% (299)	100% (281)	99% (177)	100% (112)	100% (165)	100% (1034)
Missing:						22
Total Investigated:						1056

$\chi^2=33.67$, $DF=12$, $p<.001$

significant if we examine the outcomes of force complaints only according to situation (see Table 4.21.) The extent of substantiation in force complaints arising in different situations ranges from a low of ten percent for crime report and "other" situations to a high of 26 percent for patrol situations. The extent of unfounded dispositions is again relatively low in traffic and crime report complaints (3% and 5%, respectively) and relatively high in "other" complaints (12%.) The extent of exoneration in crime report complaints is again relatively high (17%), particularly in comparison to patrol complaints (8%).

It appears that the situations in which complaints arise are significantly related to both the dispositional stage reached at the CCRB and to the dispositional outcome of investigated complaints. These relationships appear to be independent of the types of complaints that arise in various situations.

Situation-based differences in the dispositional stage reached may reflect, in part, differences in the types of complainants and victims involved in traffic, crime report and patrol situations and, in part, differences in the amount of identifying information about complaining victims provided in various types of police-citizen encounter. Differences in investigative outcomes, on the other hand, may result partly from differences in the kinds of incidents that are subject to being unfounded or exonerated and partly from differences in pre-investigative screening (the relatively low amount of investigation in patrol complaints, for example). Complaints arising in

TABLE 4.21

Investigative Outcome by Situation
(Investigated Force Complaints Only)

Investigative Outcome	Situation					
	Traffic	Crime Report	Dispute	Patrol	Other	All Situations
Substantiated (Favors the Complainant)	17% (29)	10% (21)	13% (17)	26% (20)	10% (11)	14% (98)
Unsubstantiated (Neutral)	66 (111)	68 (144)	65 (86)	58 (45)	65 (70)	65 (456)
Unfounded	3 (5)	5 (10)	9 (12)	9 (7)	12 (13)	7 (47)
Exonerated (Favors the Subject Officer)	13 (22)	17 (38)	14 (19)	8 (6)	12 (13)	14 (97)
Total	99% (167)	100% (213)	101% (133)	100% (78)	99% (107)	100% (698)

p < .01

patrol situations appear to reach some form of definitive disposition, favoring either the complainant or the subject officer, more frequently than complaints arising in other situations; patrol complaints which do not provide sufficient evidence are often deemed appropriate for conciliation (see Appendix Table D5.)

3. Victim Ethnicity and Dispositional Outcomes

The relationship between the ethnicity of the victims of alleged police misconduct and the disposition of complaints filed in their behalf (in most cases by victims themselves) is of particular interest. This is because of occasional charges that the CCRB is biased in its handling of civilian complaints -- that it favors whites over minorities in the decision-making process. If this charge were true, we would expect complaints involving white victims and complainants to be investigated and substantiated more frequently than complaints involving other groups (see Appendix A for a discussion of the reasons for basing analyses on victim ethnicity rather than complainant ethnicity.)

In this section we look first at relationships between victim ethnicity and the dispositional stage reached to determine whether there were race-ethnic differences in the likelihood of investigation, after controlling for differences in the type of complaint filed. Next, we examine possible race-ethnic differences in the outcomes of investigated complaints to determine whether there was any discernible bias within the investigative process.

a. Victim Ethnicity and the Dispositional Stage Reached

Table 4.22 shows that there is a significant bivariate relationship between victim ethnicity and the dispositional stage reached by their complaints. Minority victim complainants drop out of the dispositional process more frequently (Hispanics, 43%; blacks, 38%; whites, 32%) and the complaints of white victims are more frequently conciliated (48%; blacks, 38%; Hispanics, 36%.) Yet there was little difference in the likelihood of investigation for various groups.

White complainant-victims were more likely to have their cases conciliated after complaints that dropped-out of the dispositional process were subtracted (70%) than were other groups (blacks, 61%; Hispanics, 64%) (see Table 4.23.) This works against the hypothesis that minorities are discriminated against in the CCRB process. Yet these differences in the extent of drop-out and conciliation might well be related to differences in the kinds of complaints filed by various groups. Minorities were disproportionately involved in force complaints, which were characterized by high drop-out and low conciliation patterns; whites, on the other hand, were disproportionately involved in discourtesy complaints, a complaint type that was frequently conciliated.

To determine whether ethnic differences in the dispositional stage reached were the product of complaint differences, we looked at the relationship between dispositional stage and victim

TABLE 4.22
Dispositional Stage by Victim Ethnicity

Dispositional Stage	Victim Ethnicity			
	White	Black	Hispanic	All Groups
Drop-Out	32% (565)	38% (683)	43% (401)	37% (1649)
Conciliation	48 (846)	38 (667)	36 (333)	41 (1846)
Investigation	20 (362)	24 (427)	20 (189)	22 (978)
Total	100% (1773)	100% (1777)	99% (923)	100% (4473)
Missing: Total Disposed Complaints:				1168 5641

$\chi^2=60.25$, $DF=4$, $p<.001$

TABLE 4.23
Percent of Remaining Complaints Conciliated,
Net of Dropout, by Victim Ethnicity

Victim Ethnicity	Percent Conciliated	N Remaining after Dropout
White	70%	1208
Black	61%	1094
Hispanic	64%	522

ethnicity for each separate complaint type. There were significant relationships between ethnicity and the dispositional stage reached for force and abuse complaints, but not for discourtesy complaints (see Tables 4.24-4.29.) The differences were largely related to patterns of dropping out. Complaints involving minority victim-complainants dropped out of the dispositional process significantly more than white victim-complainants in force complaints (Hispanics, 48%; blacks, 44%; whites, 39%) and abuse complaints (Hispanics, 34%; blacks, 34%; whites, 26%.) For all groups, dropping out was more frequent in force complaints than in abuse complaints.

Generally, differences among ethnic groups in the extent of conciliation and investigation for various complaint types were not large. The single exception involves the extent of conciliation and investigation in Hispanic abuse complaints. In abuse complaints only, Hispanics who did not drop out were more likely to accept conciliation (77%) than other groups who did not drop out (whites, 72%; blacks, 65%.) Combined with the relatively high drop-out of Hispanics in abuse complaints, the large number of conciliated complaints led to a relatively small proportion of investigated abuse complaints for Hispanics (15%, compared to 23% for blacks and 21% for whites.) For other complaint types, there was little difference in the likelihood of either conciliation or investigation according to ethnicity.

TABLE 4.24

Dispositional Stage by Victim Ethnicity
(Force Only)

Dispositional Stage	Victim Ethnicity			
	White	Black	Hispanic	All Groups
Drop-Out	39% (319)	44% (467)	48% (293)	43% (1079)
Conciliation	34 (278)	29 (310)	28 (164)	30 (757)
Investigation	27 (219)	28 (295)	24 (149)	27 (663)
Total	100% (816)	101% (1072)	100% (611)	100% (2499)
Missing: Total Force:				545 3044

$\chi^2=13.81$, $DF=4$, $p<.001$

TABLE 4.25

Percent of Remaining Complaints Conciliated,
Net of Dropout, by Victim Ethnicity
(Force Only)

Victim Ethnicity	Percent Conciliated	N Remaining after Dropout
White	56%	497
Black	51%	605
Hispanic	53%	318

TABLE 4.28

Dispositional Stage by Victim Ethnicity
(Discourtesy Only)

Dispositional Stage	Victim Ethnicity			
	White	Black	Hispanic	All Groups
Drop-Out	25% (115)	25% (67)	35% (32)	26% (214)
Conciliation	66 (304)	63 (168)	57 (52)	64 (524)
Investigation	9 (41)	11 (29)	8 (7)	9 (77)
Total	100% (460)	99% (264)	100% (91)	99% (815)
Missing: Total Disposed Complaints:				223 1038

NS

TABLE 4.29

Percent of Remaining Complaints Conciliated,
Net of Dropout, by Victim Ethnicity
(Discourtesy Only)

Victim Ethnicity	Percent Conciliated	N Remaining after Dropout
White	88%	345
Black	85%	197
Hispanic	88%	59

It is also possible that the relationship between victim ethnicity and the dispositional stage reached stems from differences in the types of situations in which complaints arose for various ethnic groups. We have seen that white victims were over-represented in traffic situations and under-represented in crime report and patrol situations. We have also seen that complaints arising in these situations types differed significantly in terms of the dispositional stage reached; traffic complaints were far less likely to drop out of the CCRB process than patrol complaints. If the relationship between victim ethnicity and dispositional stage were a function of differences in the frequency of underlying situations, that relationship would not be significant after controlling for differences in underlying situations.

Analysis shows that victim ethnicity remains consistently related to the extent of drop-out from the CCRB process even after controlling for situation type. For all situation types, complaints involving white victims were less likely to drop out than complaints involving blacks or Hispanic victims; for most situations, complaints involving Hispanic victims were more likely to drop-out than complaints involving black victims. Yet the relationships between victim ethnicity and dispositional stage reached significance only for traffic and patrol situations (see Tables 4.30 and 4.31.) In both traffic and patrol situations, complaints involving Hispanic victims were far more likely to drop out (30% and 55%, respectively) than complaints involving

TABLE 4.30

Dispositional Stage by Victim Ethnicity
(Traffic Situations Only)

Dispositional Stage	Victim Ethnicity			
	White	Black	Hispanic	All Groups
Drop-out	20% (130)	22% (86)	30% (68)	22% (284)
Conciliation	63 (411)	52 (207)	45 (100)	56 (718)
Investigation	18 (116)	26 (102)	25 (56)	21 (274)
Total	101% (657)	100% (395)	100% (224)	99% (1276)
Missing: Total Disposed Traffic Complaints:				330 1606

$\chi^2=28.73$, $DF=4$, $p<.001$

TABLE 4.31
 Dispositional Stage by Victim Ethnicity
 (Patrol Situations Only)

Dispositional Stage	Victim Ethnicity			
	White	Black	Hispanic	All Groups
Drop-out	44% (95)	50% (137)	55% (87)	49% (321)
Conciliation	38 (82)	33 (93)	37 (59)	36 (234)
Investigation	19 (41)	17 (59)	8 (12)	15 (100)
Total	101% (218)	100% (279)	100% (158)	100% (655)
Missing: Total Disposed Patrol Complaints:				248 903

$\chi^2=11.65$, $DF=4$, $p<.05$

white victims (20% and 44%, respectively.) In spite of the fact that situation type is strongly related to the extent of drop out, differences between ethnic groups in the extent of participation in the CCRB process remain.

There were some apparent differences between ethnic groups for specific situation types in the extent of conciliation and investigation. Yet, there were no consistent patterns across situations in terms of which victim group was most likely to be associated with conciliated or investigated complaints. For example, traffic situations and patrol situations differed in terms of the ethnicity of the victim group whose complaints were most likely to be investigated.

Overall, the ethnicity of victim-complainants has an independent and consistent relationship to the extent of drop-out from the dispositional process, even after controlling for differences in the type of complaint filed and the situation in which complaints arose. White victim-complainants dropped out less frequently than minority victim-complainants, no matter what type of complaint was filed. Yet the type of complaint filed and the situation in which complaints arose were also independently related to the dispositional stage reached.

b. Victim Ethnicity and the Outcomes of Investigated Complaints

The ethnicity of victim-complainants was not significantly related to the outcomes of investigated complaints. Table 4.32 shows that the investigative process did not favor white victim-complainants. In fact, complaints involving whites were slightly less likely to be substantiated and slightly more likely to be disposed in favor of the subject officer (unfounded or exonerated) than complaints involving minorities, although the differences were not significant.

Additional analyses of relationships between victim ethnicity and dispositional outcomes for specific complaint types (force, abuse, discourtesy/ethnic slur) did not reveal any significant relationships between the ethnicity of victims and the outcomes of investigated complaints.

Although there was a significant relationship between victim ethnicity and the extent of drop-out, there was no apparent relationship between victim ethnicity and either the likelihood of investigation or the dispositional outcomes of investigated complaints.

TABLE 4.32
Investigative Outcome by Victim Ethnicity

Investigative Outcome	Victim Ethnicity			
	White	Black	Hispanic	All Groups
Substantiated (Favors the Complainant)	12% (45)	15% (63)	15% (29)	14% (137)
Unsubstantiated (Neutral)	61 (222)	63 (268)	66 (124)	63 (614)
Unfounded	8 (29)	7 (32)	3 (6)	7 (67)
Exonerated (Favors the Subject Officer)	18 (56) 26%	15 (64) 22%	16 (30) 19%	16 (160)
Total	99% (362)	100% (427)	100% (189)	100% (978)
Missing: Total Investigated:				78 1056

NS

4. Subject Officer Characteristics and Dispositional Outcomes

Finally, we examined relationships between the characteristics of subject officers (officer ethnicity, gender and years of service) and the dispositional stage reached (drop-out, conciliation, investigation), as well as to the dispositional outcomes of investigated complaints.

Neither years of service nor officer gender were significantly related to the dispositional stage complaints reached at the CCRB. The ethnicity of subject officers, however, was significantly related to the dispositional stage reached.

Table 4.33 shows that the relationship between officer ethnicity and dispositional stage is statistically significant, although the differences between ethnic groups are not large. The primary difference appeared to be that complainants dropped out somewhat less frequently in complaints involving black subject officers (30%) than in complaints involving white or Hispanic subject officers (36% and 37%, respectively.) There was little difference according to officer ethnicity in the proportion of the remaining complaints that were conciliated after subtracting those that dropped out (see Table 4.34) or in the proportion of complaints that were investigated.

Neither the ethnicity nor the gender of subject officers was significantly related to the outcomes of investigated complaints. This suggests that there was no systematic bias in the investigative process for or against either minority officers or female officers.

TABLE 4.33

Dispositional Stage by Officer Ethnicity

Dispositional Stage	Officer Ethnicity			
	White	Black	Hispanic	All Officers
Drop-Out	36% (1418)	30% (154)	37% (130)	36% (1702)
Conciliation	44 (1705)	47 (244)	41 (147)	44 (2096)
Investigation	20 (791)	23 (122)	22 (79)	21 (992)
Total	100% (3914)	100% (520)	100% (352)	101% (4790)
Missing:				651
Total Disposed Complaints:				5641

$\chi^2=10.23$, $DF=4$, $p<.05$

TABLE 4.34

Percent of Remaining Complaints Conciliated,
Net of Dropout by Officer Ethnicity

Officer Ethnicity	Percent Conciliated	N Remaining after Dropout
White	68%	2496
Black	67%	366
Hispanic	65%	226

There was, however, a significant relationship between officer's years of service and the dispositional outcomes of investigated complaints (see Table 4.35).⁹ However, further analysis shows that the relationship between years of service and the outcomes of investigated complaints resulted from differences in the types of complaints filed against officers with different amounts of job experience. Separate analyses of the relationships between job experience and dispositional outcomes for force, abuse and discourtesy complaints shows that the relationship between years of service and dispositional outcome was not significant after controlling for differences in complaint type.

In summary, the analyses done in this study provide no evidence that the dispositional process of the CCRB was biased either for or against any specific group of victims or officers. Although complaints filed against black officers dropped out of the dispositional process somewhat less frequently than complaints filed against other officers, the difference was relatively small. Furthermore, the dispositional stage involved ("drop out") reflects differences in the actions of complainant-victims, rather than differences in the way in which the CCRB

⁹Officers receiving CCRB complaints who had three years of prior service were more likely to have complaints against them substantiated (25%) than any other group of officer (from 10% to 14%.) There was also an association between lengthier service and the frequency of findings that favored the subject officer (i.e., unfounded and exonerated dispositions.) Officers with 16 or more years of service were more likely to receive investigative dispositions in their favor (29%) than officers with one or two years of service (20% and 17%, respectively.)

TABLE 4.35
Investigative Outcome by Years of Service

Investigative Outcome	Years of Service							All Subject Officers
	1	2	3	4-10	11-15	16+		
Substantiated (Favors the Complainant)	13% (18)	12% (29)	25% (40)	14% (18)	10% (14)	10% (14)	14% (133)	
Unsubstantiated (Neutral)	68 (105)	70 (167)	53 (85)	62 (79)	65 (89)	61 (86)	64 (611)	
Unfounded	5 (8)	3 (7)	4 (6)	9 (11)	7 (10)	8 (11)	6 (53)	
Exonerated (Favors the Subject Officer)	15 (24)	14 (34)	18 (29)	15 (19)	18 (24)	21 (29)	15 (140)	
Total	101% (155)	99% (237)	100% (160)	100% (127)	100% (137)	100% (140)	99% (956)	
						Missing: 100 (140)	Total: 100 (1056)	

$\chi^2=34.11$, $DF=15$, $p<.01$

handles complaints against various officer groups. Although complaints against officers with extensive job experience were more frequently disposed in favor of the officers than complaints against officers with less experience, this difference appears to result from differences in the types of complaints filed against officers with varying degrees of experience, rather than from differences in the dispositional process.

5. Conclusions: Factors Related to Dispositional Outcomes

Analysis showed statistically significant relationships between the dispositional stage reached and a variety of factors -- complaint characteristics, the situation in which complaints arose, victim ethnicity, and the ethnicity of the subject officer. Yet the reasons behind these various significant relationships differ.

Some differences in the dispositional stage reached resulted primarily from differences in the extent to which various groups of victims remained involved in the CCRB's dispositional process. Some groups of victim-complainants (those involved in abuse and discourtesy complaints, those whose complaints arose in traffic situations, white victim-complainants, those who filed complaints against black subject officers) did not drop out of the CCRB process as frequently as others.

Other differences in the dispositional stage reached by various groups of complaints reflected the fact that serious complaints were relatively unlikely to be conciliated and, therefore, relatively likely to be investigated. The influence of

complaint seriousness on the extent of investigation was most apparent in the way in which various complaint characteristics (complaint type, injury allegations, type of alleged force) were related to the dispositional stage reached. Complaint seriousness also appeared to explain, at least in part, the relationship between dispositional stage and the underlying complaint situation -- crime report complaints were investigated more often than complaints arising in other situations.

Only a few factors were significantly related to the dispositional outcomes of investigated complaints -- the type of complaint, as defined by FADE categories; the type of force alleged in force complaints; and the type of situation in which the complaint arose (a relationship which remained significant after controlling for differences in complaint type.) In all cases, differences in investigative outcomes appeared to be related to the content of the allegations and the extent to which those allegations were fit for exoneration. Some allegations -- discourtesy, ethnic slurs -- were inherently difficult to exonerate. Other allegations -- that guns were drawn unnecessarily, that summonses were wrongfully issued, that other forms of enforcement were improper -- appeared to be exonerated more easily, possibly because conditions under which such behaviors are appropriate have been procedurally defined, while Department rules do not identify conditions under which ethnic slurs or discourteous remarks are tolerated.

There were relatively few differences between groups of com-

plaints in the extent of substantiation. Differences in the proportion of complaints substantiated, when they did occur, were relatively small. Generally, these differences appeared to be the result of greater preliminary screening before investigation. For example, investigated discourtesy complaints were somewhat more likely to be substantiated than force or abuse complaints. This seemed to be because discourtesy complaints generally would not have been investigated (i.e., conciliation would probably have been offered) unless there was sufficient evidence to suggest that investigation might produce a definitive disposition. More serious complaints were often investigated because of the seriousness of specific allegations, rather than the evidentiary strength of the case; therefore, these cases were somewhat less likely to reach definitive disposition.

The quantitative analysis as a whole did not reveal any evidence that the CCRB dispositional process was biased either for or against particular groups of victim-complainants or subject-officers. Differences in the dispositional outcomes of investigated complaints appeared to be related primarily to complaint characteristics, rather than to characteristics of complainants and/or officers.

The quantitative analysis alone provides a sketchy outline of how the dispositional process of the CCRB works -- the stages that precede investigation, the factors that influence conciliation offers, the factors that affect the likelihood of investigation, and the factors related to differences in the dispositional

outcomes of investigated complaints.

Yet the quantitative analysis tells us little about the actual workings of the dispositional process -- the efforts made by investigators to contact complainants, the extent of investigative review before conciliation is offered, the amount of evidence needed to merit investigation, the way in which investigators weigh conflicting evidence in complicated investigated complaints. In the following chapters, we review findings of the qualitative analysis to flesh out our understanding of how the CCRB dispositional process works.

Chapter V

The CCRB Process: Complaints that are not Investigated

An early critic of mechanisms for handling police abuse referred to the disposition process at the New York City CCRB as "an extremely fine sieve through which relatively few complaints are pure enough to pass" (Chevigny, 1969: 56). In the previous chapter, we saw that only a small proportion of complaints that entered the CCRB were ever substantiated. A large proportion were closed without a complete investigation (in many cases, before investigations were begun), generally because complainants could not be reached, would not cooperate further, or accepted conciliation.

This chapter presents a qualitative analysis of complaints that were not fully investigated. Whereas quantitative analysis delineated the types of complaints that were most likely to be disposed in the early stages of the CCRB process, qualitative analysis helps us understand how that process works: the investigative effort to retain cases; the factors that affect the intensity of that effort; the decision to offer conciliation; the amount of evidence necessary to require that cases be investigated; and the relative seriousness of complaints that drop out, are conciliated or reach investigation. Qualitative analysis also helps us understand why so many cases were closed as incomplete and shows us the substance of complaints that were conciliated.

The qualitative research presented here is based solely on a review of CCRB case files. That approach permits an examination of the appropriateness of outcomes based on evidence contained in those files. It also permits some assessment of whether obvious leads (named witnesses) were not followed or relevant evidence (issued summonses) not gathered. It does not, however, allow an assessment of the possible impact of evidence not gathered or investigative efforts not taken, nor does it permit evaluation of the quality of investigation actions (contacts with complainants, canvasses). The qualitative review takes case files at their face value. It does not audit the described investigative process in specific cases.

Based on the review of CCRB case files, the qualitative analysis of CCRB cases looks at the influence of case seriousness, evidentiary strength, complainant credibility and complaint specificity on the disposition of complaints. It looks for common factors that distinguish incomplete cases from conciliated and investigated cases. It also examines the roles played by various actors at the CCRB (investigators, their supervisors, board members) in reaching a final disposition and the factors taken into account at different stages.

This chapter describes and examines the handling of various types of complaints in the qualitative sample. It attempts to illuminate the process of case disposition at the CCRB by examining particular cases and sub-groups of cases that were closed early in the CCRB dispositional process.

A. "Investigation Closed": Complaints that "Drop Out"

The quantitative analysis revealed that a large proportion of complaints were closed without definitive resolution before investigations were completed (in some cases, before investigation could be begun). It also showed that force complaints were more likely than other types of complaint to "drop out" of the disposition process. We speculated that complainant characteristics might be related to the fact that the most serious complaints (force) dropped out most. We saw that discourtesy complaints were more likely than others to arise in traffic situations and be filed by complainants who, as a group, appeared likely to cooperate in the CCRB process. Force complaints, on the other hand, were often filed by complainants in crime-report and patrol situations, many of whom proved difficult to contact.

Qualitative analysis helps reveal other reasons why so many complaints filed at the CCRB were not completely investigated. Some complainants dropped out at the advice of their attorneys. Other complainants were impossible to re-contact. In some cases, investigators determined that there was little hope of substantiation and complainants were offered two weeks to respond before cases were closed.

The qualitative analysis also suggested that, within FADE categories, cases that dropped out appeared to be less serious and weaker in evidentiary terms than other cases. Many cases that were closed as incomplete suffered from a lack of specificity in the original complaint.

Cases in which investigation was closed without disposition at the CCRB are of four types: withdrawn cases; cases in which the complainant and/or victim were unavailable (i.e., cannot be located or contacted); cases in which the complainant and/or victim were uncooperative (i.e., either expressly unwilling to continue their cooperation or apparently unwilling to respond to letters, return calls or show up for appointments); and cases in which police officers could not be identified. In some cases, more than one category applied. If a complaint was withdrawn or a complainant unavailable, these facts appeared more likely to determine the CCRB classification of the reason for closing investigation than the fact that the police officer involved could not be identified.

1. Withdrawn Complaints

Once filed with the CCRB, complaints can be formally withdrawn if a complainant requests withdrawal, and signs and returns a formal statement of withdrawal. Even if the statement is not returned, complaints are sometimes disposed as withdrawn, based upon the complainant's expressed desire alone. All such statements are recorded on tapes which are maintained by the CCRB.

Some withdrawn complaints were relatively scanty, compared to complaints that went further in the dispositional process. This was particularly true of discourtesy complaints. Complaints variously alleged that an officer was "insulting and acted in an abusive manner", "rude and abusive" following a traffic infraction, or said "shut up and shut everything off" before writing

out a summons. The lack of specificity and detail in the complainant's account reduced the apparent seriousness of these allegations. There were no witnesses in any of these "scanty" withdrawn cases, although subject officers and complainants were well identified.

In other withdrawn cases, subject officers were not identified. Generally, these complaints would have been closed even if they had not been withdrawn. One complainant, who had been in a fight when drunk, alleged that an unknown police officer had hit him on the head when he refused to stop fighting. He went to a hospital with "minor lacerations" and a complaint was filed for him by a hospital worker. He withdrew the complaint when the CCRB first contacted him, claiming he had never meant to file a complaint in the first place. Another relatively scanty complaint alleged that an officer pushed a complainant during a dispute; there was again no way to identify the officer. Another complaint alleged that the door to the complainant's business was broken down when police responded to a burglary call. The complainant did not know if the officers involved were from Emergency Services or the local precinct. He withdrew the complaint, explaining that he had not witnessed the event and could find no witnesses to it.

Motives for withdrawing complaints varied. Many complaints appear to have been withdrawn because complainants had no further interest in pursuing the CCRB process. One complaint, filed by a man who had been arrested after kicking a car, was withdrawn on

the advice of his attorney. Another was withdrawn by a complainant who misunderstood the purpose of the CCRB. He was not happy about how police responded to his girlfriend's report that he had taken her jewelry (he claims she had stolen his jewelry). The complainant, who spoke with a heavy accent, had no real complaint about the police; he said they had been "very nice". He apparently had filed his complaint to set the story straight. He was advised to call the precinct.

Although most withdrawn complaints demonstrated various forms of evidentiary weakness (no independent witnesses, no officer identification, lack of specificity), two complaints were relatively specific and relatively serious. In one, a complainant alleged that her son had been yelled at and punched by an identified off-duty officer who was investigating the theft of tires from a derelict vehicle in the neighborhood. The complainant withdrew the complaint during the first telephone interview with an investigator; she did not explain why.

In the most serious withdrawn case, CCRB investigators went to considerable effort to contact the complainant. The complaint alleged that the complainant and a friend who had been found urinating in public were beaten by police, after refusing to kneel in a puddle of urine. The complaint further alleged that the complainant passed out and woke up in the station house. At the stationhouse, he was allegedly kicked in the genitals. The officers allegedly told him "If you go to the hospital, we'll fuck you up." CCRB investigators first interviewed the com-

plainant within three hours of the incident. Photographs were taken. The location was canvassed but no witnesses were found. Yet investigators had difficulty recontacting the complainant based on the identification provided at intake. Eventually, they referred back to the original summons and found the identification of the complainant's friend, who did not cooperate in the investigation. He did, however, provide accurate contact information for the original complainant. When the complainant was located, three months after the original incident, he withdrew the complaint.

2. Investigation Closed: Complainant/Victim Unavailable

Some cases were closed after investigators have used all available contact information and still could not reach the complainant. Some complainants could not be reached directly and did not respond to messages. Other complainants were anonymous. Others had given inadequate or inaccurate contact information.

In cases closed because the complainant was unavailable, investigators generally attempted to make contact by phone at least three times over a period of approximately two weeks. In most cases, contact attempts were made within a month of the original incident. Investigators also generally searched for alternative phone numbers or correct addresses. Because most of these cases did not involve an arrest or summons, there was little additional contact information on complainants. As in withdrawn complaints, officer identification was frequently missing and several complaints lacked specificity.

There were two anonymous complaints. One alleged rudeness in a traffic incident. The other was filed by a witness who claims she saw officers slap a woman and threaten a man. The anonymous complainant identified two RMPs as involved in the incident. Yet the precinct reported that the officers assigned to those RMP's were off duty or on another tour at the time. A man and woman, arrested by the identified officers on that date, were identified as the possible victims of the incident by investigators. Yet, there was no telephone number reported on their arrest report and a certified letter, sent to their address, was returned by the post office. The case was closed as "complainant unavailable". The identity of the police officers and the victims remained unconfirmed.

In some "unavailable" cases, complainants appeared to want little CCRB action beyond the filing of their complaint. One complaint was filed by letter from Canada. The complainant alleged rudeness in a traffic incident. He had received a traffic summons, but gave no location and did not identify the subject officer. He did not respond to letters from CCRB investigators.

In other cases, contact information originally supplied by the complainant appears to have been untrustworthy. One complainant had claimed to be the owner of a fashionable east side boutique. Yet letters to his recorded home address were returned, marked "no such address". He could not be reached at the boutique. And a call to his home phone was answered by a man

claiming to be his employer. After several calls, the case was closed.

Occasionally, contact efforts reveal that complainants may not have wanted to file complaints in the first place. One complainant had been arrested, based on false information supplied by an informant. Police discovered that there was no basis for the arrest and the arrest was voided. When the CCRB investigator (after repeated contact efforts) called the precinct to check the complainant's address and phone number, he learned that the complaint -- alleging that handcuffs were too tight -- had been filed by precinct personnel on behalf of the complainant who had not requested that a complaint be filed. The complaint was closed as complainant unavailable.

Most allegations in "unavailable" cases in the qualitative sample were relatively minor. In some cases, investigators determined that further effort was unwarranted, based on both the apparent lack of evidence and the minor nature of the complaint. One complainant, who had been in a traffic accident with an unidentified off-duty officer, claimed that the officer threatened force. The complainant's phone was not answered on repeated calls and a certified letter was never claimed. Investigators determined that substantiation was remote and that further effort would be "wasteful and unproductive".

3. Investigation Closed: Complainant/Victim Uncooperative

Some of the cases that were closed because of lack of cooperation on the part of complainants or victims were held open

for several months in the hopes of the complainant's cooperation. Investigators repeatedly scheduled appointments that were never kept or attorneys ultimately advised their clients not to cooperate. In shorter cases, receipts for certified letters sent by the CCRB were signed and returned, but complainants never contacted investigators and investigators were unable to contact them.

Some "uncooperative" cases resemble cases closed as "unavailable". One case involved an anonymous complainant (she gave only a first name, but refused to identify herself further). In another case, the complainant had left no home address or telephone number and was no longer working at the shop whose phone number had been given. These cases had been closed as "complainant uncooperative" although they meet the criteria of the "complainant unavailable" category (i.e., no contact possible.)

In some "uncooperative" cases, attorneys determined that the CCRB complaint would not advance related court activity. In one case, a Greek complainant was arrested with Puerto Rican friends in an abandoned apartment where hypodermic syringes were found. He alleged false arrest, "malicious prosecution" and an ethnic slur against his Greek heritage. A letter in his file from a neighborhood action group supports the police efforts to shut down a known "shooting gallery". Although the complainant and his attorney agreed to schedule an appointment at the CCRB, they never did. A letter was sent advising them that they had two weeks to respond or the case would be closed. They did not

respond. The allegation of false arrest would clearly not have been substantiated in any case.

In another case, also involving an attorney, a complainant was questioned about his possession of a stolen van, which he claims to have owned. He complained that police drew their guns unnecessarily (a force allegation). Yet, his main concern appeared to center on the van itself, which was returned to another man who claimed original ownership. Over a three month period, the complainant made several appointments at the CCRB, but failed to appear. After several calls to his home and office, the complainant's son informed investigators that the complainant was unwilling to cooperate and that investigators should call his attorney. The attorney did not respond to the investigator's messages and the case was closed. Again, there was little likelihood of substantiation.

In several "uncooperative" complaints, police officers were not identified. A complainant who alleged that he had been searched and beaten on his way to work could not identify the officer involved and could not be contacted by investigators (this case resembled "complainant unavailable" cases). A complainant alleging discourtesy in a dispute incident failed to respond to repeated messages or to participate in the effort to identify the specific subject officer (two officers had responded to the call). The case was closed because, (1) the complainant failed to keep appointments, (2) there was no witness cooperation and, (3) the subject officer was "still not identified". Another com-

plainant, who had alleged force in a family dispute, described a pair of officers (a black and white team) who did not match the description of the officers recorded as responding to the call. The complainant signed a receipt for a certified letter, but did not contact the CCRB and could not be reached by telephone. The complaint was closed after two months of contact efforts.

Other "uncooperative" complaints showed additional evidentiary weakness. One complaint, involving force allegations, did not list the date or time that the event occurred and identified only two of the three officers allegedly involved. The complainant reported that officers had stopped to question her son, who was noisily banging on the door to get in. A shoving match developed between the officers and her son and she went to intercede. She was allegedly cursed at and shoved against a parked car. Investigators called the complainant a few times, but no one answered the phone. The complainant did not respond to letters sent by either certified or regular mail. The investigator allowed two weeks for the complainant to contact the CCRB before the case was closed. In this case, there were relatively few attempted phone calls, in spite of the relative seriousness of allegations and the fact that there were reported witnesses to the event. Yet the complainant did not supply enough information (date, time, witness identification) for investigators to begin investigation and did not cooperate in the investigative process.

In "uncooperative" cases, as with "unavailable" complaints, the investigator's judgment that "substantiation is remote" is

sometimes explicitly given as the reason for closing a case. One complainant alleged that he had been served with a traffic summons (no turn signal) in spite of the fact that the officer had allegedly been "too far away" to see what happened. He also alleged discourtesy and an ethnic slur. There were no witnesses. The complainant had originally given the wrong telephone number. When his correct number was supplied by the telephone company and he was reached at home, he claimed to be too busy to talk. He could not be reached on subsequent calls. After two months of contact efforts, the investigator determined that further effort would be wasteful and unproductive.

4. Investigation Closed: No Officer Identification

Only a small proportion of CCRB cases were officially closed because subject officers could not be identified, although police officers also remained unidentified in many cases that were closed as incomplete for other reasons. (As we shall see later, it is also possible for conciliated and unfounded cases to involve unidentified police officers.)

Some cases, closed because officers could not be identified, involved inaccurate identifying information (license plates, shield numbers). One complainant had incorrectly copied the shield number of an off-duty officer who had been "driving dangerously" and cut off the cab the complainant was riding in. The officer was allegedly rude and threatening. The officer whose number had been given did not match the description of the officer involved and had been on duty on a foot post at the time.

In other cases (alleging rudeness in traffic), reported license plates did not belong to members of any branch of the New York City Police Department.

There was no identifying information given at all in other cases. An anonymous complainant, who alleged rudeness and unsafe driving, provided no identifying shield or RMP numbers and no description of the officer involved. Another complainant, alleging that she was pushed by an off-duty officer who interceded in a dispute following a traffic accident, provided no means of identifying the officer.

In other cases, allegations were too general to be tied to a specific officer. A transvestite, who claimed that local officers repeatedly told him to take his clothes off, told investigators: "It happens all the time in the area." He added that only white officers were involved. The investigator informed the complainant that he needed to identify a specific officer at a specific time and place before any action could be taken.

Several of the cases closed because officers could not be identified were filed by complainants of low credibility. In one case, a chronic complainer alleged that officers made menacing remarks to her on the street. In another, an elderly woman wrote a two-page letter to the mayor alleging that an officer had forced his way into her building and pointed a gun at someone's head; the letter was rambling and incoherent and did not identify the officer. Although the woman informed CCRB investigators that

she wanted to withdraw her complaint, she added extensive, emphasized comments to her withdrawal letter:

Your man has got away with it this time. If I had his number, he would have been in real trouble. I am my own woman. I form my own decision. God helped that man if I had his number. He is lucky. Let him don't try it again. (Emphasis in original).

In one case, the complainant appears to have been confused about where and when the alleged incident took place. The complainant was a cleaning woman who claims to have had an encounter with police at the hotel where she lived. There was no record of any police action at that time and place. In fact, the event may have occurred at the house where she worked. Her allegations confuse her employer's husband with her own (non-existent) husband. She alleged that she has been mistreated by the police since she came to this country and that, on the night in question, she "lost her vision", and someone slapped her in the face and told her to "drink in a bar". She also alleged that a police officer "kneed" her in the back. Her employer, listed as a witness, reports that police were called to the employer's home (not the complainant's) when the complainant was drunk and abusive. The witness reports that the officers were polite and no force was used. Although these officers could have been identified as responding to the employer's call, the investigator chose not to do so. Perhaps this was because the complainant (who called all police "criminals and rapists") was clearly disturbed and there was little apparent substance to her specific allegations.

In other cases, CCRB investigators did make extensive efforts to identify officers. In one case, a complainant alleged that officers assisted his estranged wife in gaining entry to his apartment and "stood by" while she was breaking down the door. The complainant reported that a black and white team of officers were involved, but he could give no car number, no shield numbers and no names. The local precinct reported that no officers had been called to the location and there were no black/white teams working on the day of the incident. A private security force in the area had no record of the incident, or of repairs to the complainant's apartment. The complainant's wife would not cooperate in the investigation. The investigator also checked with the local Neighborhood Stabilization Unit and a Bronx task force (unspecified); these units had had no involvement at the housing complex on that date. Although the complainant was willing to continue his cooperation, the investigator judged that further effort would be "wasteful and unproductive".

* * *

In summary, most cases that dropped out would not have been substantiated, even if complainants had cooperated or if officers could have been identified. As a group, these cases appeared to be less serious, less specific, and less supported by witnesses or other evidence than cases that went further in the CCRB process. Several complaints suffered from a lack of complainant credibility. Many would have been inappropriate for investigation even if complainants had cooperated; conciliation offers

might have been judged appropriate in many cases, based on complaint seriousness and evidentiary strength.

It should also be noted that most cases reviewed did not involve subject officers with extensive prior complaints -- complaints in which conciliation offers would not have been made, had there been a cooperative complainant. There was one notable exception. That complaint, alleging rudeness in a traffic situation, was filed by an anonymous complainant, who identified himself as a former police officer. The subject officer had received more than ten prior complaints. Yet, because the complaint had been filed anonymously, the CCRB could not proceed with investigation.

Although, as previously indicated, in a few cases it appeared that further contact efforts might have been productive, in most instances the decision to close an investigation appeared eminently reasonable. Yet the distinctions between "unavailable, complainant/victim", "uncooperative complainant/victim" and "unidentified police officer" categories were often unclear. Many cases that dropped out or were dropped from the CCRB process did so for more than one specific reason.

For all categories of complaints, cases which resulted in early closure usually presented less serious allegations and/or weaker evidence than cases which penetrated further into the dispositional process. These factors may have influenced the decision to close a case early although the reason for closure was categorized in other terms. When an allegation seemed relatively

trivial, the available evidence seemed clearly insufficient to substantiate it, and the complainant was unresponsive to CCRB notices, the staff were more likely to accept that unresponsiveness and close the cases as "uncooperative complainant" fairly quickly. If, in contrast, the allegation was serious and the evidence suggested the possibility of achieving a more definitive disposition, the staff was more likely to keep the case open longer while pursuing the case further.

In the few "investigation closed" cases that did appear to be relatively serious, investigators apparently made more of an effort to locate and retain complainants than in other cases. But the difference is small. In fact, in most cases, investigators appeared to exhaust all leads (addresses, home telephone numbers, business telephone numbers, information from summonses or arrest papers, calls to witnesses or identified victims) before closing investigations.

B. Conciliated Complaints

According to members of the CCRB Conciliation Unit, three factors influenced the decision to offer conciliation: charge seriousness, evidentiary strength, and the prior complaint history of subject officers. If the complaint was deemed serious, if there was a possibility of a definitive disposition (either for or against the officer), or if the subject officer had an extensive prior record, the complaint would be judged inappropriate for conciliation.

Conciliated cases are not investigated. The conciliation offer is generally made by phone. Complainants who agree to conciliation do not need to be re-interviewed in person concerning the details of their allegations. In many cases, conciliation as performed by the CCRB may be all that a complainant desires. The complaint has been recorded and the officer spoken to. Yet "conciliation" (i.e., to fashion an acceptable solution or to placate animosity) may be something of a misnomer. There is no formal mediation session. The complainant and the subject officer do not meet face to face. Differences in their accounts of the underlying incident are never reconciled.

Once complainants agree to conciliation (i.e., to accept the closure of the case on the assurance that the subject officer will be spoken to) subject officers are required to come in to the CCRB and to present their version of the underlying incident. During conciliation, Police Captains on the CCRB staff ask officers whether behavior such as that alleged by the complainant is appropriate and professional.

In the qualitative sample of conciliated complaints, generally, subject officers presented a version of the incident that differed substantially from that of the complainant. In some instances, officers claimed that they did not recall the alleged encounter. Subject officers generally agreed that the alleged behavior, presented as a hypothetical incident, "would be wrong".

Cases with identifiable witnesses were less likely to be selected for conciliation than others, because of the evidentiary strength of the case. Even so, there were a few conciliated complaints in the qualitative sample in which witnesses were identified. Most of these cases involved allegations of discourtesy only. None of the witnesses were thoroughly independent; they were generally relatives or friends of the complainant. In the few conciliated cases in which witnesses were identified, the relative lack of seriousness of the allegations apparently provided grounds for accepting the case for conciliation.

The CCRB permits conciliation occasionally in cases in which the subject officer is not identified. In one discourtesy complaint in the qualitative sample, the complainant alleged that unknown officers drove by while the complainant's daughter and her friends were visibly holding firecrackers. The complaint alleges that the officers were rude and used obscene language to the complainant's daughter. The complainant agreed to "unilateral conciliation" -- conciliation in which subject officers are unidentified and, therefore, uninvolved in the conciliation process. In such cases, the complaint is closed as complete, in spite of the fact that officers have not been identified, because the complainant has cooperated and has agreed to conciliation.

Qualitative analysis suggests that the factors that influence the decision to offer conciliation may have varied ac-

ording to the type of complaint. In cases that were relatively serious, evidentiary concerns may have carried more weight than in other types of complaints. In addition, the decision to offer conciliation appeared to take longer to reach in more serious cases.

1. Conciliated Discourtesy Complaints

Quantitative analysis shows that discourtesy complaints were far more likely to be conciliated than other types of complaints (abuse, force). The decision to offer conciliation in some 1984 discourtesy cases appeared to have been made immediately upon receipt of the complaint. In such instances, case files showed no activity record on the part of investigators and cases were closed as conciliated within a month.

Many conciliated discourtesy complaints arose in traffic situations. Typically, complainants challenged traffic enforcement and asked why they were receiving a summons or requested the subject officers badge number. They alleged rudeness and/or obscenity in response. Other conciliated cases alleged ethnic slurs or rudeness to parties involved in a dispute. If there was a cooperative, accessible complainant in cases in which the most serious allegation involved discourtesy, the decision to offer conciliation appeared to be routine. Such cases required either unusual conditions (extreme discourtesy, strong evidence), an extensive prior complaint history for subject officers, or the insistence of a cooperative complainant if they were to be investigated.

2. Conciliated Abuse of Authority Complaints

Most abuse complaints in the qualitative sample also appeared to reach conciliation relatively quickly. One such case involved a complainant who had been intoxicated when police responded to a neighborhood dispute which gave rise to his complaint (threat of arrest); he agreed to conciliation a day after filing his complaint.

Other abuse cases in the qualitative sample took somewhat longer. An arrest threat complaint, deriving from a dispute between an officer and his landlord about a broken door, took nearly two weeks and a home visit by a CCRB investigator before the complainant agreed to conciliation. The investigator apparently saw little likelihood of substantiation, but the complainant wanted a forum in which to air his various personal complaints (unpaid rent) against the officer.

Several of the conciliated abuse cases in the qualitative sample arose in traffic situations. Although all of them involved complainants who believed they had been issued summonses that they did not deserve, there was invariably an additional allegation of impropriety -- flirtation, reckless driving, threat of continuing harassment. Most of these situations had escalated from simple traffic enforcement, although they did not entail force. Such complaints appear to have been channeled rather routinely towards conciliation.

Not all of the conciliated abuse cases fit this routine pattern. One exception involved a complaint which was relatively

detailed, provided a witness and alleged relatively serious abuse. A journalist, who received a summons for refusing to leave the scene of a traffic accident, alleged that the officer threatened arrest and broke a camera belonging to his partner, an identified witness who had been photographing the encounter. The witness, however was not independent.

It is not entirely clear why this complaint was deemed appropriate for conciliation. It may have been because there were no independent witnesses and, therefore, little chance of substantiation. In addition, the complaint itself revealed aggressive, harrassing behavior on the part of the complainant. This may have mitigated the apparent seriousness of the allegation. It should also be remembered that in 1984, before the Conciliation Unit was introduced, investigators were believed to have sought conciliation more frequently than now, at times when it may not have been appropriate.

3. Conciliated Force Complaints

In conciliated force complaints, case files generally contained a complete investigative record, suggesting that the decision to offer conciliation was neither immediate nor routine. Evidence appeared to have been carefully evaluated before conciliation was offered. In a few cases, the conciliation offer was made only after a CCRB lieutenant or captain reviewed the case. In one case (a gun displayed in an off-duty traffic altercation), the investigator carefully explained that evidentiary

reasons (the lack of witnesses) reduced the possibility of substantiation and he therefore recommended conciliation.

At times, the conciliation offer followed extensive initial investigatory action. In one such case, the complainant, a male Hispanic epileptic, had been involved in a dispute with a white girl over the sale of a leather coat (she claimed he stole it). He alleged that the officer who responded to the dispute used force to handcuff him, "smacked him around", called him crazy at the station house, and offered no help when he suffered a seizure. Investigators canvassed the area looking for witnesses and requested a radio run sheet, precinct records, a copy of the summons and an activity log. The investigator was aggressive in his efforts to contact the complainant and reinterviewed the complainant about his allegations. Although the complainant's second account clarified some of the details of his allegation, it also gave rise to questions about his credibility. He repeatedly complained that officers at the station said he was "psycho", "making believe" and "crazy". Prior complaint histories also seem to have played a part in the decision to offer conciliation: the complainant had filed two prior complaints, alleging force by police officers; the subject officer, who had less than a year of service, had no prior complaints. The conciliation offer was made following a CCRB captain's review, a month and a half after the investigation began.

In another conciliated force case, even though substantiation may have been unlikely, the reason for conciliation was not

entirely clear. The incident (treated as a single case) had given rise to two separate complaints. The first complaint alleged that an off-duty officer had beaten up the complainant's son in a neighborhood grocery store. The second alleged that an off-duty officer, who had been drinking beer in public, had his gun out. RMP's had been called to the scene. The store owner reported to police that no gun had been drawn. A CCRB captain, responding to the "gun drawn" allegation, went to the scene and identified the police officer involved in the incident. Although there were two complaints, there were no cooperative independent witnesses. The complainant in the second complaint was unavailable. The complainant whose son was allegedly beaten agreed to conciliation. The conciliation offer was made in spite of the fact that the officer, who had ten years of service, had received seven complaints in the past three years.

Although preliminary investigation revealed that the confrontation with the complainant's son may have involved a robbery attempt on the part of the son, the fact remains that the officer's off-duty behavior gave rise to two independent complaints. The prospects for substantiation were remote. Yet the alleged incident, along with the officer's recent complaint history (many complaints in the past year following several years of service in which few complaints were filed), suggests that conciliation might not have been appropriate in this case.¹

¹ Some aspects of this complaint (drinking in public, the alleged inappropriate use of a service revolver while drinking) suggest that a referral to counselling or support services might have been appropriate in this case. The CCRB has the power to refer subject officers to the "early intervention" unit when appropriate, although it must also reach a substantive disposition

Other conciliated force complaints were closed more quickly. These cases generally involved minor force allegations (a push, a shove and minimal evidence in support of the complainant's allegations. Yet, as a whole, the conciliation of force complaints involved more investigation and more concern with evidentiary strength than other types of conciliated complaints.

Review of the conciliation process sheds additional light on why so many 1984 force complaints dropped out of the CCRB disposition process. Conciliation was less likely to be offered in force complaints than in other types of complaint. At times, when used in force complaints, it seemed to be a disposition of last resort. Force complaints took a relatively long time to dispose. If an investigator decided to offer conciliation in less serious cases (abuse, discourtesy), that offer was generally made in a few days. Yet, in force cases, it appeared to take longer to discover that substantiation was unlikely. The conciliation offer in force cases often followed preliminary investigation and supervisory review.

In 1984, force cases appear to have had more time to drop out of the disposition process because the conciliation offer was made less frequently and less rapidly. Force complainants had more time to drift away from participation in the CCRB process.

in each case. CCRB staff report that such referrals are generally made either when an officer has an unusually high frequency of civilian complaints or when a complaint points to bizarre or unusual behavior, as in this instance.

Although it is also likely that force complainants were more difficult to contact, more often acting in conjunction with a court case, and less inclined towards conciliation than others, differences in the process of offering conciliation for force complaints may have permitted more attrition.

C. Conclusion

In summary, the first two dispositional stages at the CCRB in 1984 provided a fairly effective screening device, channeling less serious and less substantive complaints away from investigation. Most complaints that dropped out of the CCRB process showed little likelihood of definitive disposition following investigation. Complainants frequently could not be contacted or would not cooperate in investigation. Few witnesses were identified at intake. Often, complaints that dropped out did not appear serious enough to be sent directly to investigation; if complainants had cooperated in such complaints, it is likely that conciliation would have been offered.

The qualitative review of conciliated complaints also helps explain aspects of the disproportionate "drop out" of force complaints that were not apparent in the quantitative review. The rapid conciliation of less serious cases (abuse, discourtesy) appeared to reduce the frequency of drop-out by attrition.

In some force complaints in the qualitative sample, conciliation seemed to have been offered as a disposition of last resort for complaints which, if investigated, would have been disposed as unsubstantiated. In 1984 at least, if a complaint

appeared to be "going nowhere", investigators occasionally offered conciliation as a means of reducing the number of investigated complaints that were not definitively disposed. Based on our review of information available in CCRB files, this practice appeared to serve as a pragmatic attempt to achieve some resolution in complaints that could not have been satisfactorily resolved.

Although there were a few conciliated complaints in which conciliation might not have been warranted, based on the seriousness of allegations or the complaint record of the subject officer, inappropriate conciliation was infrequent. The review of investigated complaints in the following chapter reveals some 1984 complaints in which conciliation had been offered by investigators and accepted by complainants, but overturned following higher-level review. It may be these complaints that are referred to by CCRB staff who speak of excessive investigatorial pressure on complainants to conciliate in 1984.

Our review suggests that decisions to offer conciliation in 1984 generally appeared appropriate. This research, however, provides no information about the way in which conciliation offers were made or about whether complainants felt "pressured" into accepting conciliation. The third piece of Vera's research will explore this issue further.

On the whole, the qualitative review revealed an apparent effort to retain relatively serious complaints for investigation. There was some evidence that investigators tried to keep com-

plainants who had filed substantive, serious complaints involved in the CCRB process. They appeared to use the dispositional alternatives of "drop out" and conciliation as triage, to reduce the number of investigated complaints that could not be definitively disposed.

Chapter VI

Investigated Complaints

The quantitative analysis showed that only 19 percent of complaints were fully investigated in 1984. It also demonstrated that complaint seriousness (based on FADE categories) was directly related to the likelihood of reaching investigation. The qualitative analysis of the early dispositional stages at the CCRB suggested that evidentiary strength and the prior complaint record of the subject officer also influenced the likelihood of investigation.

The process of disposing investigated complaints differs markedly from the dispositional process when cases are closed at earlier stages. In early dispositional stages, each complaint is disposed by the CCRB as a unit, although it may contain a variety of separate allegations. If a complaint drops out or is conciliated, all the allegations involved in that complaint (force, abuse, discourtesy) share a common disposition.

In contrast, when complaints reach the investigation stage, each allegation is considered and disposed separately. It is possible for a single complaint to entail multiple allegations of force, abuse and of discourtesy/ethnic slur. If several officers or several victims are involved, separate allegations against different officers and on behalf of specific victims may be differentiated. Investigators must weigh the evidence supporting and contradicting each allegation individually.

Most investigated cases in the qualitative sample involved no more than three allegations. A few (generally force

complaints) entailed extensive lists of allegations. In one case, nine separate allegations were listed.

There are four possible dispositions of investigated allegations -- unfounded, exonerated, substantiated and unsubstantiated. According to the official definitions of these dispositions, if an allegation is disposed as unfounded, the event is judged not to have happened. A disposition of exoneration indicates that the alleged action happened, but that it was justified and proper police action. Both unfounded and exonerated allegations are comparable to an acquittal of the subject officer.

Substantiated allegations are findings against the subject officer; the incident is found to have occurred as described and to be improper and unprofessional. The fourth possible disposition -- unsubstantiated allegations -- occurs when the evidence is insufficient to determine either whether or not the incident occurred or whether or not the incident was a violation of rules and regulations. In some complaints which are not substantiated, there may be a finding of "other misconduct" which had not been alleged by the complainant.

The dispositions reached at the CCRB are determined by the preponderance of evidence -- a less stringent evidentiary standard than that employed in a criminal court. If an allegation is substantiated and "charges and specifications" are lodged, the complaint is reviewed at departmental trial using a stricter standard of evidence, closer to the "beyond a reasonable doubt" standard of a criminal court. It is possible for a single com-

plaint to involve a variety of outcomes -- a substantiated force allegation, an exonerated abuse allegation and an unsubstantiated discourtesy allegation. It is also possible for separate allegations of the same type within a single complaint to reach different dispositions. Within a single complaint, one force allegation may be exonerated as necessary and proper action, another substantiated as excessive force, and a third unsubstantiated because the evidence is insufficient to determine whether the alleged incident actually occurred.

When there are multiple allegations of the same type (for example, force), the CCRB data system codes the complaint in terms of the "most serious" disposition (i.e., substantiated, unfounded, exonerated, unsubstantiated.) In a case involving multiple allegations, if any single allegation is substantiated, the officer is subject to departmental sanctions.

A. Unfounded Complaints

Although unfounded allegations are categorized as investigated, in some instances in the qualitative sample a relatively cursory review revealed that the complainant had never intended to file a complaint or that the apparent subject officer was not, in fact, a member of the NYPD. In these instances, the entire complaint was disposed as unfounded rather quickly. In other cases, however, a fuller investigation indicated either that the complainant's statement was not sufficiently trustworthy to raise a question of misconduct or that the incident "did not happen."

1. Complaint Improperly Filed

Some cases disposed as unfounded are actually complaints that were improperly filed. One complaint alleged only that the complainant had "received stitches for drinking in the park". No police officer was identified and there was no information on where or when the alleged event occurred. The apparent complainant claimed that he had never filed a complaint in the first place. The complaint closely resembles a "withdrawn: investigation closed" situation. But the complaint was not withdrawn. In essence, it had never been filed, at least not by the identified complainant. To dispose such a case as "unfounded" provides a more definitive disposition than to close the investigation. But there was little investigation involved and it was never actually ruled that the alleged event (whatever that event might have been) "did not happen."

Similarly, a discourtesy complaint, filed by a complainant who wanted the complaint "off the record", was disposed as unfounded. No officer was identified or described. The rationale in such cases appears to be that "unfounded" allegations are more effectively eliminated than withdrawn complaints. It may have been more appropriate to dispose such improperly filed complaints as "withdrawn" or "complainant uncooperative". To call them "unfounded" implies an investigation leading to the conclusion that the alleged misconduct did not occur.

2. Non-Police Officer Complaint

Allegations against individuals who were not police officers apparently constitute a distinct group of unfounded dispositions. Such complaints again differ from the expected "unfounded" case, in which investigation reveals that the alleged incident "did not happen."

One such case involved an allegation of discourtesy in a traffic incident by a man who identified himself as a police officer. The complainant copied his license plate and investigators discovered that the individual had resigned after short service with the NYPD; he was not an officer at the time of the incident. The finding does not imply that the incident did not happen. Nor could the case be closed as "officer not identified." Someone was identified, but he was not a police officer. If he had been, the allegation might have ended as unsubstantiated (there were no witnesses); or the complaint might have been deemed appropriate for conciliation. Because there was no officer involvement, the allegation of impropriety against an officer was disposed as "unfounded"; yet the case might have been more properly defined as outside of the CCRB's jurisdiction.

Other "unfounded" allegations in our sample, actually involved a uniformed hospital security guard, in one instance, and members of the New York City Fire Department, in another. In these cases, fuller investigation was required to determine that police officers were not the subject of the particular allegation. In addition, other allegations within these complaints as a whole did involve identified officers. In these instances, the disposition "unfounded" appears to be used as a means of dis-

tinguishing specific allegations that do not fall within the jurisdiction of the CCRB (because they do not involve members of the department) from allegations that are within the CCRB's jurisdiction.

3. "Crazy" or Untrustworthy Complainants

Another group of unfounded allegations was so disposed because investigation revealed that complainants were psychotic or otherwise untrustworthy. Although in these cases there is generally additional evidence indicating that alleged incidents had not occurred, the judgments about the complainant's credibility appear to be the principal reason for the disposition.

In several instances, the complaint itself raised questions about the sanity of the complainant -- an allegation that an officer monitored all the movements of the complainant; an allegation that an officer was distributing the complainant's phone number; an allegation that police officers "got made for blowing their cover."

There was generally additional evidence from relatives or neighbors that the complainant was an "emotionally disturbed person". In one of these complaints, there was no evidence of any encounter between the complainant and a police officer. Another complainant proved to be so disturbed that investigators, after conducting a home visit, actively referred information about her condition to social services and repeatedly followed up on their

referral; they also recommended that her name be added to the chronic complainer list (she had 13 prior complaints).

Other allegations were disposed as unfounded because there was evidence that complainants might be taking retaliatory action against police officers or were otherwise untrustworthy. In one such case, an auxiliary police officer was dismissed after police officers, who had responded to a dispute in which he was involved, reported his behavior to the precinct in which he served. The auxiliary officer's complaint alleged that he encountered one of the officers the next day and the officer was extremely threatening and discourteous. Two pieces of evidence supported the unfounded disposition: a letter from a lieutenant in the precinct where the auxiliary officer served, commenting upon the complainant's character and suggesting that retaliation was involved; and evidence from the officer's memo book that he was on duty elsewhere at the time of the alleged encounter.

Another untrustworthy complainant, who alleged unnecessary force, had been fired from his job after police arrested him for menacing and harassment; he claimed in his interview that he had quit. He was obstreperous and hostile at the CCRB interview. (He said "I'm not going to be fucking interviewed again" and called CCRB interviewers "wise-asses"). Witnesses reported that no force had been used. The evidence not only indicated that the alleged force "had not happened", but the complainant's behavior also undermined his credibility. It was suspected that the com-

plaint may have been filed as retaliation for the loss of his job.

4. Alleged Incident Did Not Happen

In the qualitative sample, there were only a few unfounded allegations in which the primary reason for the "unfounded" disposition was that investigation revealed that the alleged action never occurred. This type of unfounded disposition was most likely if there was an independent witness in the case.

One allegation was ruled unfounded because a witness's statement supported the police account and contradicted that of the complainant. The complainant alleged injury to his eye after three police officers told him to leave the Staten Island Ferry, and allegedly questioned him, gave him a summons for loitering, and beat him in the Ferry terminal. Police reported that the intoxicated complainant slipped and fell before leaving the ferry; one officer encountered the complainant again loitering in the terminal, and then issued the loitering summons. The complainant's account depicts an uninterrupted interaction with three officers. A concession stand owner, however, reported seeing the complainant loitering and disoriented within the terminal for an extended period before being questioned by a single officer. This information did not accord at all with the complainant's account, but corresponded to that of the police. Police had prepared an Aided report and offered medical assistance, supporting their account. The preponderance of evidence favored the po-

lice account. The intoxication of the complainant during the incident may also have affected his credibility.

In another case, alleging damage to a complainant's door, witness testimony indicated that the door had been left unlocked and was damaged before police entered. This corroborated the police claim that they had entered the apartment during a search for a prowler only because there was apparent damage to the cylinder lock in the complainant's apartment.

In another case, there were no witnesses to the alleged use of force. Instead, the complainant was cited as a witness against himself. The complainant had been involved in a fight outside a bar, after he had consumed a quart of whiskey in the course of the evening. He ran away when the police arrived. He claimed that the subject officer hit him, breaking his jaw, when he was apprehended several blocks away. Yet he told a sergeant at the scene that his mouth had been injured in the fight, not in the police encounter. An "Aided" report indicated "facial lacerations following a fight with an unknown assailant." His CCRB complaint, filed by an attorney after the complainant learned the extent of his injuries, contradicted his earlier account to the sergeant. At the hospital the next day, the complainant reported having been "beaten about the head with billy clubs" -- a detail that does not correspond to his CCRB complaint. The CCRB investigator found that the complaining victim was "unsupported", had made little effort to identify witnesses,

and had presented contradictory accounts of the incident.

In "unfounded" complaints in which injury is alleged, the possibility of an accompanying civil suit may necessitate the careful weighing of evidence about the origins of an injury. In the case reviewed above, the complainant's attorney carefully spelled out the extent of his client's hardship, suggesting that he may have had such a suit in mind. In such cases, the burden of proof is on the complainant, who must establish that the injury resulted from the police encounter, and not from another cause.

5. Patterns among Unfounded Allegations

The qualitative review revealed four types of unfounded allegations -- those in which a complaint should not have been filed, those in which no officer was involved, those involving crazy or untrustworthy complainants, and those in which investigation shows that the alleged action did not happen. The force, abuse and discourtesy complaints in the qualitative sample were distributed rather evenly across these types of unfounded disposition.¹ Only a small proportion of each were thoroughly investigated and deemed not to have happened.

Only a few unfounded allegations in the small qualitative sample were accompanied by additional allegations. Most ac-

¹ Except that in unfounded force complaints alleging injury, the disposition was usually reached after an investigation showed that the alleged action did not occur.

companying allegations were decided in favor of the officer (unfounded or exonerated). A few were disposed as unsubstantiated. None were substantiated.²

Several of the unfounded allegations reviewed led to the record of the complaint against the officer being expunged. In other cases, there was no officer identified and, therefore, no record to expunge. Yet in some instances, an officer was identified and the record not expunged. Sometimes this was because additional allegations had not been disposed as either unfounded or exonerated (an unsubstantiated search or threat allegation accompanied some unfounded allegations).

Yet there were also examples of complaints that were completely unfounded, but not expunged. In one case, investigators believed that the complainant was seeking retaliation and had invented his allegation. They recommended that the complaint be expunged; the Board disposed the allegation as unfounded, but did not vote to expunge the case from the officer's file. The file does not reveal why they did not.

In other cases, investigators found the entire complaint "unfounded" but did not recommend expunging the record. CCRB

² In part, this is a function of how the sample was drawn. We do see an occasional "unfounded" allegation in the sample of "substantiated" cases. Our sample defines an "unfounded" complaint as one in which the most serious allegation was "unfounded". Because the CCRB codes the most serious disposition for a particular type of allegation, this excludes the possibility of more serious dispositions for the most serious type of allegation.

staff explain that such cases are retained on officers' records because the alleged encounter occurred, although the alleged misconduct did not. The CCRB investigative policy permits expungement primarily in cases in which the evidence indicates that the subject officer was not involved in the alleged encounter, although there are some exceptions (chronic and/or delusional complainants, evidence of retaliatory intent, inability to specify which officer was involved in alleged misconduct.) According to CCRB investigative policy, unfounded complaints in which an encounter actually occurred are not appropriate for expungement.

Yet this rule of thumb did not appear to have been consistently applied in cases in the qualitative sample. In some expunged complaints, the encounter between the subject officer and the complainant indisputably took place. In some cases, involving clearly untrustworthy complainants, complaints were not expunged, although, in at least one instance, there was no evidence of any encounter between the complainant and subject officer.

B. Exonerated Complaints

In many situations that give rise to complaints, the decision to use force or to issue a summons is discretionary. Allegations can be exonerated when the CCRB finds that the police action described by the complainant was "lawful and proper." Police officers are entitled to use force to control difficult situations; force allegations can be exonerated if the use of

force is deemed necessary to achieve control. Similarly, officers are entitled to issue summonses and make arrests in a wide variety of situations; abuse allegations can be exonerated if enforcement activity is found to be a lawful response to the situation.

Yet discourtesy is apparently not subject to exoneration. In the group of cases eligible for the qualitative sample, a computer search identified only one "exonerated" complaint in which the most serious allegation was discourtesy. Upon closer examination, that complaint proved to have been an exonerated abuse allegation, improperly coded; an accompanying discourtesy allegation was unsubstantiated. There are no grounds on which discourtesy to the public can be found "lawful and proper." Therefore, the group of exonerated cases in the qualitative sample is limited to abuse and force complaints.

1. Exonerated Abuse of Authority Allegations

Most exonerated abuse allegations in the qualitative sample involved issues of enforcement -- a summons for horn-blowing, summonses for "ticket-scalping" outside Yankee Stadium, an order to leave a park after 1 a.m., a threat to issue summonses for "retarding traffic" and "failure to comply" in a congested traffic situation. At times, exoneration entailed review of relatively obscure statutes of the city's administrative code (e.g., Arts and Cultural Affairs Law, Park Regulations).

In most cases, allegations of improper enforcement were ac-

accompanied by additional allegations of discourtesy that could be neither substantiated nor exonerated. Such complaints could not be expunged. In the one instance in which there were no accompanying discourtesy allegations (the order to leave a park), the complaint was wholly exonerated and expunged from the officers' files.

One exonerated abuse complaint in the sample involved more than a simple determination that enforcement was appropriate. Investigators found that police officers had acted properly in a complex situation in which they had allegedly failed to take enforcement action. The complainant was a supermarket security guard who had detained a teen-aged boy for stealing chickens. He had called the police to escort the boy home, because the boy's mother was disabled (store policy demanded that shoplifters be released into someone's custody). The complainant alleged that officers had refused to give their shield numbers, had threatened to arrest him if the boy was not released, and had "challenged his authority."

The subject officer, after investigating the situation, had learned that the boy had been improperly detained. The boy had not left the store and videotape confirmed the boy's account of the incident; he had left the check-out line to use a soda-can return machine. Witnesses agreed. The officer explained that he had not refused to reveal his shield number, but had refused to allow its use on the supermarket's official release form. He

reported that "to do so would absolve the store of responsibility" and pass the "liability of detaining the youth" from the store to the police. The officer admitted informing the security guard that the boy was being improperly detained and should be released, or the guard would be arrested. The security guard refused to release the boy and called for a second RMP. The officer's sergeant supported the officer entirely and the second call was cancelled.

The CCRB investigation entailed interviews with the complainant, the detained teen-ager, the officer's sergeant and several additional store employees. Investigators found the officer's behavior to have been "lawful and proper" and recommended that the complaint be expunged from his file.³ The investigation in this instance was far more extensive than that called for by typical exonerated abuse allegations.

2. Exonerated Force Allegations

Generally, force allegations are exonerated when the officer admits the use of force, and the evidence demonstrates that force was necessary to achieve control in an official interaction with citizens. Most of the exonerated force findings involved the justification of force on the job: a complainant's hand was twisted because she was threatening to throw a coffee-cup at her boyfriend; mace and physical restraint were necessary to control

³This case represents a departure from the investigative policy of not expunging exonerated complaints.

an irate father in a schoolyard fight, who could not be calmed down; guns were drawn in a traffic stop following a dispute because RMP officers had been told to apprehend a fleeing suspect; force against a complainant who had been drinking in public was justified by evidence of injury to an officer (his thumb had been bitten). In all of these instances, the CCRB ruled that the officer was entitled to use force to achieve control.

Most of the complaints summarized above involved relatively complex interactions and multiple allegations. Few of the force complaints were wholly exonerated, generally because there were additional allegations (a punch in the stomach, excessive force after handcuffs were fastened) which were disposed as unsubstantiated. Nor were any of the complaints expunged from officers' files -- not even the "gun drawn" complaint, in which there were no accompanying allegations.

One complaint, arising from a schoolyard fight, involved four separate allegations of improper force. Witnesses to the incident agreed that an irate father resisted restraint (neither mace nor a single officer could subdue him). Three separate force allegations were exonerated, on the basis of that evidence. Yet, the complaint also alleged that force was used after he was handcuffed. Some witnesses contended that the officers had not used force after handcuffing the complainant. Yet there were no

possible witnesses to the interaction between the officers and the handcuffed complainant once they entered the patrol car. Therefore, the allegation of excessive force had to be disposed as unsubstantiated, despite the fact that considerable evidence supported the officers on all other counts.

In other cases, involving exonerated allegations, accompanying allegations were disposed as unsubstantiated despite the presence of apparently supportive evidence. In one case, in fact, the finding that force was justified to control a disorderly complainant may have influenced the disposition of an accompanying discourtesy allegation. The complainant was a nightschool student, drinking a beer on his dinner break. Police officers issued him a summons for beer-drinking and allegedly told him he was too fat to be drinking beer (according to an independent witness, they called him "a fat fucking slob"). Words were exchanged. (One witness heard the complainant say, "I hope your kids die of cancer, you rotten scumbag.") The subject officer ordered the complainant to halt; the complainant did not. The officer followed him into the school where the acknowledged use of force (a punch in the face, beating with a nightstick) occurred. The complainant was charged with assault, resisting arrest and disorderly conduct.

The CCRB ruled that the use of force was justified, based on evidence that the complainant had resisted arrest violently. He bit the officer's thumb and the officer required medical treat-

ment. Yet they also found the discourtesy allegation "unsubstantiated", in spite of witness testimony corroborating the complainant's account.

Several factors may account for the disposition of the discourtesy allegation (the file seems to discount witness testimony but does not provide a sufficient explanation for doing so). There was some evidence that the complainant had encouraged and coached at least one witness. This may have damaged the credibility of other witnesses who supported his account. The complainant's testimony may also have been suspect because of a prior arrest record for various offenses (including disorderly conduct). Yet the evidence suggests that the officers had been discourteous, although various accounts present different language. The discourtesy seems to have given rise to the ensuing force. The investigators may not have believed the witnesses were independent, or the fact that investigators found the use of force justified by the complainant's violent response may have affected the disposition of the discourtesy allegation as well.

One atypical exonerated force complaint in the sample sprang from an essentially interpersonal situation, involving an off-duty officer. The complainant alleged that the officer drew his gun, struck him with it, threatened to shoot, did not identify himself as a police officer and made an unlawful arrest for assault and harassment.

Investigation revealed that the officer was dating the com-

plainant's former girlfriend. The complainant waited outside his former girlfriend's house, in his car. When the couple left on their date, the complainant made a U-turn, and began following the couple. The subject officer pulled over and exchanged words with the complainant. The complainant continued to follow them in his car from the suburbs into the Bronx. A fight ensued when the officer pulled his car over in the Bronx. The complainant apparently attacked first (the officer had to have five stitches near his eye) and the officer drew his gun and struck the complainant in self-defense. The officer's story was supported by his date, a witness to the event. CCRB investigators found inconsistencies in the complainant's story and a failure to account for the injury to the officer. The use of force was exonerated and the arrest deemed justified. Other aspects of the complaint, however, were disposed as unsubstantiated, including the allegation of "no police officer identification", in spite of testimony that the complainant knew full well that his former girl friend was dating a police officer. Even though the incident was interpersonal in origin, exoneration in this case again relied upon the determination that force was necessary.

Exonerated force complaints appear to be more difficult to exonerate fully than exonerated abuse complaints. Even if the use of force is deemed justified, some aspect of the situation generally remains unsubstantiated.

Exonerated complaints as a whole differ from the group of

unfounded complaints examined earlier. Some unfounded complaints resembled cases closed without investigation, except that they were more definitively disposed. In contrast, exonerated complaints were more fully investigated than unfounded complaints, and generally involved legitimate complainants, real police-citizen encounters and identified police officers.

C. Unsubstantiated Complaints

CCRB complaints are disposed as unsubstantiated when the evidence is insufficient to determine either whether the alleged incident actually occurred or whether the event that took place was, in fact, unprofessional, unjustified and/or improper. In some cases, officers deny having used force or having searched alleged victims; if there is no evidence supporting or contradicting the complainant's allegation that force was used or a search conducted, the complaint will be unsubstantiated. In other cases, officers admit having used force or conducted a search, but they contend that their actions were necessary and lawful; if there is no independent evidence refuting or supporting the necessity or legality of their actions, the complaint is disposed as unsubstantiated.

To some extent, the term "unsubstantiated" misrepresents the group of cases to which this disposition is applied. The term suggests that complaints might have been substantiated but for an inherent evidentiary weakness. In some cases, this is true. But in several complaints, the evidence that is available appears to

favor the police officer somewhat more than the complainant. In such cases, there is not quite enough information to constitute a "preponderance of evidence" favoring the officer. These cases might be better conceptualized as "unexonerated", rather than "unsubstantiated". Within the qualitative sample, there were at least as many cases that seemed to favor the officer's account of the incident as there were apparently favoring the complainant's. What these cases generally had in common was an insufficiency of independent evidence supporting a definitive determination in either direction.

The reasons for an unsubstantiated disposition are not always entirely clear in the case file, giving rise to such question as: Why wasn't this allegation substantiated? Why wasn't this allegation exonerated? Why wasn't this complaint as a whole conciliated? In most instances, the reasons a particular alternative disposition was not reached are apparent. There may not have been enough evidence for a more definitive disposition. Yet there may have been too much evidence (e.g., a named witness) for a conciliation offer to have been judged appropriate. Or the officer's record of prior complaints may have precluded conciliation.

Yet the fact that some unsubstantiated complaints, based on a reading of the case file, arguably might have reached a different disposition suggests the inherent ambiguity and the consequently unsatisfactory nature of this dispositional category.

Neither the complainant nor the police officer is likely to be happy with this disposition.

Within the group of unsubstantiated complaints in the qualitative sample, there are apparent differences between force, abuse and discourtesy/ethnic slur complaints in terms of evidentiary strength (the absence or presence of witnesses), the prior complaint history of subject officers, and the extent to which the evidence tends to favor the complainant rather than the subject officer..

Because unsubstantiated force, abuse and discourtesy/ethnic slur complaints appear to differ somewhat in the reason that an unsubstantiated disposition was reached, it is appropriate to examine them separately.

1. Unsubstantiated Force Complaints

Within the group of unsubstantiated force complaints in the qualitative sample, there were only a few cases in which the evidence seemed generally supportive of the complainant, although not quite strong enough to merit a finding of substantiation. In contrast, there were several cases in which the evidence appeared to favor the police officer, either because force seemed to be necessary or reasonable, or because witnesses supported the officer's account of the situation, or because the complainant's credibility was weak. In such cases, evidence was not judged to be strong enough to merit exoneration. There was also a third group of cases in which the evidence did not seem to favor the

complainant or the police officer, but simply was too weak to support or contradict the force allegation. In a few of these cases, there was not enough evidence to identify the officers involved in the alleged incident. In other cases, identified witnesses could not be located or failed to cooperate.

Even though cases which came close to substantiation were few, it is valuable to take a detailed look at the unsubstantiated force case which was closest to being substantiated to see how much evidence is necessary to constitute a "preponderance of evidence." In the case in question, a black teen-ager who was carrying (or possibly concealing) a baseball bat, was observed by two Anti-Crime officers and their supervising sergeant, as he left the bat in an apartment building. They suspected that he had hid the bat in the building for later use as a weapon; he contended that he had left it in a stairwell for a friend. The boy alleged that he was choked, threatened, punched and beaten with the bat by the police. The officers' memo books report that it was "necessary to use physical force" to get the defendant's hands behind his back; they denied choking him or hitting him with the bat.

The boy was hospitalized shortly after his arraignment and release. The diagnosis was pneumonia, rather than an injury immediately attributable to the alleged beating. To the complainant (the boy's mother) and the victim, the boy's illness and hospitalization seemed to be directly related to the trauma of his

encounter with the police and the period spent in the holding cell. The boy's mother refused at first to tell investigators where the boy was hospitalized, claiming that she feared reprisals from the officers who beat him.

A canvass at the scene of the incident produced no new witnesses. The investigator scheduled an interview at the victim's home with the victim and two friends of his who had witnessed the incident. In many respects, the accounts of the victim and the two witnesses corresponded. The victim reported that the "cops had three different positions on me", although he did not know which was which (one was allegedly pulling his arm back, another choking him, and the third held the bat between the boy's legs). A witness used a remarkably similar phrase to describe the encounter, reporting that the victim was held "in three different positions", with the "blonde holding him, another had the bat, and another tried to put handcuffs on". To some extent, echoes in the accounts of the three boys, who had gathered in the victim's house, suggested that they had run over their stories together; this may have affected the perceived independence of their accounts.

The investigator was primarily concerned about discrepancies in their accounts about which officer did what -- confusion over whether the "blonde one" and the "tall one" were the same officer. Yet the three boys seemed agreed that the tallest officer had been the most aggressive and the shortest had been relatively

restrained. The victim reported that he'd heard "the short one" warn the others against being too rough "because they'd had complaints before." In fact, one of the officers had accumulated 25 complaints in his 14 years on the force; over the past few years, he and his partner had had several parallel complaints lodged against them -- a fact the victim could not have known, but which is consistent with his account.

In spite of the witnesses' statements, the investigator found "insufficient objective and persuasive evidence to substantiate (the) allegations." This was partly because hospital records did not reveal "evidence of alleged trauma to the skin and genitals," and partly because of apparent contradictions in the statements of witnesses about which officer was responsible for which alleged use of force. Although the investigator did not mention the possible lack of independence of the witnesses, that factor may also have affected his finding.

In the few cases which were "not quite substantiated", the issue of "necessary" versus "excessive" force was paramount. Officers generally admitted having employed force to gain control of an allegedly disorderly or resistant suspect. Yet they denied specific allegations of excessive force or use of specific weapons or the use of force after handcuffs were put on. Although witnesses may have argued that force was excessive, or may not have been necessary in the first place, the fact that officers admitted the use of force and claimed that it was

justified by the situation may make such cases difficult to substantiate.

In many unsubstantiated force complaints in the qualitative sample, evidence appeared to favor the police officer's account of the incident more than that of the complainant. In several cases, there was evidence indicating that the use of force was necessary or "reasonable" -- a teacher-witness who claimed that officers had had to physically restrain three teen-aged girls who had been picked up as truant; a community leader, discovered during a canvass, who claimed that police had used necessary, but not excessive force, to restrain a violent, disturbed suspect; a complainant, who admitted having "pulled back" some of his identification during a traffic encounter, giving rise to what an investigator termed "reasonable" force; an allegation that guns were drawn against a complainant with no driver's license or registration in a suspected stolen vehicle (in fact, his own); force against a husband, who claimed to be calming his hysterical wife, in a situation that officers officially reported as a domestic brawl on the street. In all of these situations, there was some evidence that force may have been justified, although the evidence was insufficient to show that it was not excessive.

In the unsubstantiated force case which, perhaps, came closest to exoneration, the alleged use of force was minimal. The officers had been assisting a man who had delivered a case of wine to the complainant, who had refused to pay for some alleged-

ly missing bottles (he claimed he had paid the messenger for his service, but not for "damaged" goods). The complainant alleged that the officers had kicked and banged on his door for 45 minutes, refused to produce a warrant, and pointed a gun at his wife through the peephole. The delivery man, a witness, reported that the complainant was intoxicated and abusive, that they had stood at his door for no more than 15 minutes, and that no guns had been drawn at any time. The complainant called the officers' sergeant to the scene, but refused to open the door even after the sergeant arrived. The investigator found that the officers "had acted in good faith to resolve the situation confronting them and were not unprofessional in their conduct." He also found that they had not spent an inordinate amount of time in the hall, had not needed a warrant to mediate a dispute, and were easily identifiable as police officers because they were in full uniform. Even so, the investigator recommended that the allegations be disposed as "unsubstantiated", rather than exonerated. Here, the evidence clearly favors the police officers and it is difficult to determine why the evidence is insufficient to constitute a "preponderance."

In a few unsubstantiated force complaints, the testimony of independent witnesses (i.e., by-standers) contradicted that of the complainant and supported, at least in part, the testimony of subject officers. In one case, a witness reported that force against a disorderly victim had been necessary but not excessive.

In another case, a witness supported the police in their contention that the complainant, who had been involved in a serious automobile accident and who claimed to have been sober, was clearly intoxicated at the scene. In these cases, witness testimony partially contradicted the complainant's testimony but, in the view of the CCRB staff, did not provide enough evidence to justify exoneration.

In a few other cases, investigators appeared to have questions concerning the credibility of complainants. In one such case, a cabdriver alleged that an officer had broken her nose after a traffic accident, involving another cab. Yet the driver had lodged five prior CCRB complaints and was recognized by the investigator as someone "well known in the mid-town area." The other cabdriver reported that the police had been professional and used no force at the scene. He also reported that the complainant had threatened to lodge a complaint against the officer, just so the officer would be inconvenienced. In addition, the complainant's two accounts of her injury were inconsistent with each other. All these factors made it impossible to substantiate the complainant's allegations, although they were again apparently insufficient to merit a disposition that more strongly favored the subject officer.

Other unsubstantiated force complaints provided far too little evidence to constitute a "preponderance" on behalf of either the complainant or the subject officer. In some such cases,

there was not enough evidence to determine which officers were involved -- an alleged beating of two black teen-agers on the roof of their apartment building; a brawl in mid-town involving unruly teen-agers and officers from several responding RMPs. In both instances, no officer matching the description provided by complainants could be placed at the scene.

In a few other cases, there were no witnesses identified or witnesses refused to be involved in the investigation. In one such case, involving an alleged push of a bystander during a drug arrest in a crowded bodega, investigators recommended conciliation, but the complainant refused. No witnesses participated. In another case, involving force in an off-duty traffic dispute and alleged unequal enforcement, the complainant refused to identify potential witnesses (passengers in his limo) and a canvass of the scene did not yield cooperative witnesses. These cases could not have been disposed in any way other than "unsubstantiated".

It is not surprising that only one complaint in this group had been considered for conciliation. Witnesses were identified in almost all the unsubstantiated force complaints reviewed, even if they did not always cooperate. Almost all the complaints in this group merited investigation on the basis of both seriousness and potential evidentiary strength. In addition, several complaints involved officers who had had extensive prior records of CCRB complaints.

Yet, given the recurring criticism of the CCRB as an agency that is biased against complainants in the disposition of investigated complaints, it is somewhat surprising that far more unsubstantiated force complaints favored the accounts of subject officers than the accounts of complainants. In several instances, unsubstantiated force complaints were closer to exoneration than substantiation.

Investigations were relatively extensive. Canvasses were conducted in almost half of the cases -- whenever there were possible unidentified witnesses to a public event. Medical records were less frequent, but many cases did not involve injury allegations or treatment. In the few cases in which injury was alleged and treated, but no medical records obtained, photographs taken by investigators or the testimony of witnesses documented the extent of injury.

As a group, unsubstantiated force complaints demonstrate repeatedly the difficulty of differentiating between necessary and excessive force. In many instances, the decision to use or not use force is discretionary. Specific guidelines about how much force is appropriate to a given situation are difficult to establish. Because the application of guidelines concerning the use of force by police in specific situations is often problematic, it is relatively difficult to establish definitive dispositions, even in cases in which the evidence suggests that police may have behaved in a professional manner.

2. Unsubstantiated Abuse Complaints

Among the unsubstantiated abuse complaints reviewed in the qualitative sample, some complaints appeared to favor the complainant, other complaints appeared to favor the police officer, and other complaints were neutral, providing little evidence supporting or contradicting the complainant's allegations. Neutral complaints were somewhat more frequent than the others.

In some unsubstantiated abuse cases, the evidence partially supported the complainant's account, but did not support the most serious allegations. In one such case, the officer, who had questioned a suspect in a harrassment case at work, was accused of threatening arrest and of discourtesy. Conciliation had been offered and refused. The officer admitted the arrest threat but denied having been rude. Yet witnesses who worked with the complainant (and, therefore, would not have been deemed independent by investigators) reported that the officer had called her a "jerk." (The complainant had alleged that the officer had called her "stupid".) The investigator found that the arrest threat may have been justified and therefore the abuse allegation could not be substantiated. He also recommended that the discourtesy allegation be "unsubstantiated", in spite of the support of witnesses. This recommendation may have reflected both the lack of independence of the witness and the discrepancy concerning the actual epithet used by the officer.

In another case in which there was partial support for the complainant, officers were alleged to have stopped the complainant and his brother for no reason; searched them; searched their car; and threatened force, arrest and continuing harassment. The officers claimed to have been searching for an armed robbery suspect who resembled the complainant, and denied everything except searching the complainants themselves. The only independent witness provided no evidence on most of the allegations, but did confirm that there had been a car search -- an allegation that the officers had denied. Again, all allegations were unsubstantiated.

In both these instances, investigators did recommend citing the officers for "other misconduct" -- in the former case, the demonstration of "poor judgment in interviewing the complainant at her place of employment;" in the latter case, no record of the encounter in the officers' memo books. In an unsubstantiated complaint in which "other misconduct" is noted, officers are subject to disciplinary referral (in these cases for instructions on proper procedure). The outcome, in terms of sanction, may not differ from an outcome following substantiation.

Other unsubstantiated abuse complaints presented at least partial support for the police officer. In one case, the complainant, who alleged that the officer had threatened arrest, was clearly psychotic; his father, who had called for police help in a domestic dispute, asserted that the police had not acted un-

professionally. There had been an arrest threat (admitted) but it may indeed have been justified by the situation. In another case, the victim of an alleged forced entry to serve a subpoena was too drunk to file the complaint himself; the complainant, his niece, who had allowed the officer and the victim's ex-wife into the house, was uncooperative. It was unclear whether the officer had been invited upstairs (where the victim was hiding) by the victim's niece (who had let him in) or not.

In both cases, complaints were filed by parties to a dispute in which the officer had been supporting the other disputant. There was no evidence that the officer had behaved unprofessionally and no grounds for substantiation. But the evidence was not clear enough to exonerate the officer either.

Another unsubstantiated abuse allegation in which there was some support of the complainant's allegations entered our sample as an "unfounded abuse" complaint. The complainant had alleged that subject officers had damaged his door during a search for a prowler, an allegation that was unfounded based on the testimony of the complainant's girlfriend, who reported that the door had been broken before the police entered.

Yet the testimony of the same witness (the complainant's girlfriend) had little effect on the disposition of a second allegation, claiming that police had conducted an unwarranted search of the complainant's apartment, rummaged through his medicine chest, and continued searching after the complainant ob-

jected. The intoxication of the witness, both during the accident and during her interview, was cited as evidence that the witness's testimony, in respect to the wrongful search allegation, was not strong enough to support substantiation. The search allegation was disposed as unsubstantiated. In this case the finding that the primary allegation was "unfounded" may have influenced the disposition of the accompanying allegation.

In other cases, evidence was too weak to favor either side. In most cases witnesses were identified, but they were either not independent (i.e., aligned with either the complainant or the officer), or were uncooperative or unavailable.

A few of these complaints included allegations of wrongful traffic summonses -- an allegation more properly disposed in traffic court. In these cases, there were additional allegations which could not be definitively disposed because of inadequate evidence. In such instances, the allegations of "wrongful summons" were disposed as unsubstantiated, along with the accompanying allegations.

3. Unsubstantiated Discourtesy Complaints

Several unsubstantiated discourtesy complaints closely resembled discourtesy complaints that had been conciliated. Allegations in several cases were limited to rudeness in a traffic situation. In most cases, there were no independent witnesses listed and officers did not have extensive lists of prior complaints. In one such complaint, in fact, the investigator re-

corded that the complainant was willing to conciliate; even so, a canvass of the scene was conducted -- yielding no new witnesses. The file in this case provides no apparent reason why the complaint as a whole was not conciliated. In another similar case, the fact that the subject officer had an extensive list of prior complaints was explicitly cited as the reason that conciliation was not appropriate.

Only one unsubstantiated discourtesy complaint appeared to favor the subject officer. The complainant alleged that the officer had called him a liar in traffic court. The officer explained that her testimony had indicated that the complainant was neither the same person to whom she had issued a traffic ticket, nor the same person who had last appeared in court. The officer claimed not to have used the word "liar." The investigator found the officer's explanation credible and recommended exoneration. His recommendation was overturned by the Board. One board member noted on his voting sheet that it is rude for an officer to call a citizen a "liar", even as part of courtroom testimony. Yet, in fact, the evidence was insufficient to determine whether the word "liar" had been used. Therefore, the allegation was "unsubstantiated."

In another discourtesy case, investigation appears to have been seen as appropriate because of the seriousness of the allegations, despite the fact that evidence was weak. The complaint, filed by a defendant arrested for assault against two

women, alleged an ethnic reference (the defendant was allegedly referred to as "pimp...married to a white woman"), along with threats and obscenities. There were no witnesses to the alleged discourtesy. Yet the allegations were more specific and detailed than typical discourtesy complaints and may, therefore, have justified the decision to investigate, in spite of the small possibility of substantiation.

None of the unsubstantiated discourtesy complaints reviewed came close to being substantiated. In all cases, it was clear that the available evidence was not sufficient to support the complainant's allegations.

4. Unsubstantiated Complaints: Other Misconduct

Noted

"Other misconduct noted" (OMN) is a potential supplement to the formal dispositional categories used by CCRB. It identifies procedural deviations which are uncovered by the investigation but are not the subject of formal allegations. For example, a complaint arising out of interpersonal conflict between an officer and his ex-wife alleged that the officer had threatened the use of force against the woman. The allegation was disposed as unsubstantiated. However, in the course of the investigation it was revealed that the officer had accidentally discharged his gun at home some time ago when he was a rookie. He had failed to report this incident despite the fact that Department regulations require that all discharges be reported. The misconduct was

noted by the CCRB and the officer was given instructions on the pertinent regulations.

By way of another example, a complaint of discourtesy was filed by a gay activist group. The formal allegation was disposed as unsubstantiated but the investigation showed that the officer had not fully documented his actions in his memo book. This misconduct was noted by the CCRB and the officer was referred for command discipline and was reminded to avoid "even the appearance of discourtesy."

In some unsubstantiated complaints containing OMN's, the investigators appear to believe that the officers' actions were not entirely appropriate, despite the fact that they were unable to substantiate the formal allegations. The case in which the subject officer was cited for "poor judgment" in going to the complainant's place of employment differs from the other OMNs in the qualitative sample in that it does not reflect an automatic violation of procedure (failure to make a memo book entry) but represents a perceived lapse from standards of "workmanship".

In theory, a finding of OMN is possible regardless of how the formal allegations are disposed. Unfounded and exonerated complaints in which other misconduct is noted are coded as "miscellaneous" dispositions by the CCRB and, therefore, were not represented in the qualitative sample.

5. Unsubstantiated Complaints: Summary Findings

Many unsubstantiated complaints appear to lean toward some

alternative disposition -- conciliation, substantiation, exoneration. In some cases, the weight of evidence appears to point toward another disposition but, in the final analysis, is not sufficient to justify that disposition. Our analysis suggests that unsubstantiated force complaints were more likely to lean toward exoneration, while unsubstantiated discourtesy complaints were more likely than other complaint types to lean toward conciliation. In our qualitative sample, unsubstantiated complaints that appeared to be "not quite" something else outnumbered those in which the evidence did not appear to favor either side -- the purely neutral case.

As a group, unsubstantiated complaints reflect evidentiary weakness and the ambiguities inherent in a dispositional system in which the burden of proof applies to both the complainant and the subject officer. At times, there seems to be little difference between the "preponderance of evidence" standard used by the CCRB, and the absence of "reasonable doubt" standard employed in the criminal courts. Yet, definitive dispositions are difficult to reach at the CCRB. There must be enough evidence to determine first whether the alleged incident occurred as described and, second, if it did, if it was clearly improper. The fact that many police actions may be justified, depending upon situational exigencies makes the second determination difficult. A substantial body of evidence is needed to determine whether or not a particular situation justifies an alleged response.

D. Substantiated Complaints

When an allegation is substantiated, the finding indicates that the subject officer did act as the complainant alleged and that such behavior was unprofessional and improper. If any single allegation within a complaint is substantiated, the police officer against whom substantiation is upheld is subject to a disciplinary referral -- even if all other allegations against him are "exonerated" or "unfounded".

Section E will consider the types of disciplinary referrals made and the kinds of sanctions imposed. This section reviews the characteristics of substantiated allegations according to the type of complaints lodged, the way in which accompanying allegations are disposed, the amount of evidence typically presented, the frequency of extensive prior complaint records, and the role played by CCRB investigators, supervisors, and the Board in finding an allegation substantiated.

1. Substantiated Force Allegations

In the qualitative sample, complaints in which force allegations were substantiated included some of the most serious force allegations reviewed. Many of the complaints themselves were relatively complex and detailed, forcing investigators to weigh evidence against multiple officers, examine physical evidence, and review the testimony of multiple witnesses.

As a group, force complaints that were substantiated were more likely to involve injury than were force complaints that

reached other dispositions. Only a few complaints were free of injury allegations. Almost all of those with alleged injuries received medical treatment, in most cases at a hospital or emergency room. In many cases, there were photographs in the files, taken by CCRB investigators to document alleged injuries, as well as medical records from hospitals, clinics and private physicians.

Most injuries were classified as "soft tissue" injuries, abrasions and contusions. A few complainants alleged that their wrists had been injured after handcuffs had been applied too tightly. Another complainant had required scalp sutures. One complainant, who had not received medical treatment, alleged that his face had been burned by cigarettes; photographs supported his allegation.

In some cases, the act of force and the resultant injury were intrinsically related, as in the cigarette burn complaint. In other cases, however, the alleged act of force and the injury that allegedly resulted from it are separable. Substantiation of a force allegation does not necessarily entail substantiation of an accompanying allegation of injury. For example, one complainant, who had suffered repeated blows to his chest and back during the alleged encounter, reported that his lung had collapsed a month after the incident occurred. Although allegations of unnecessary force were substantiated, there was no separate ruling about the relationship between the complainant's sub-

sequent medical condition and the police encounter.

In some cases, investigators specifically denied the relationship between the police action and the documented injury. For example, in the case of a complainant who had lost two months work when a prior knee injury was aggravated, the investigator found that unnecessary force was used by the police but that the injury was the result of a pre-existing condition, rather than the police action.

Allegations of substantial injury flowing from police action were subject to intense scrutiny in the investigative process. In the case of a complainant, who alleged that his wrist had been fractured in a police encounter, following an inter-racial brawl, the relationship between the police action and the injury was denied. The complainant had been photographed with a cast on his arm. An initial radiology report found "no evidence of a fracture"; yet a clinic diagnosed a fractured ulnar on the day after the first hospital visit. The investigator found the allegation of force against the complainant to be "unsubstantiated", although he found other allegations of unnecessary force against other victims involved in the brawl to be "substantiated." These findings imply that the injury to the complainant was the result of the brawl that preceded the police encounter, rather than the encounter itself.

Complaints resulting in substantiated force allegations appeared to cluster into four distinct types. Several complaints

contained serious allegations of police brutality arising in crime-report and non-traffic enforcement situations. Other complaints, arising in patrol and dispute situations, appeared to involve a sub-text of racial conflict between police and citizens. Another group of complaints arose in traffic situations, which escalated from routine discourtesy into force. The final group of complaints began as interpersonal, off-duty events between officers and citizens, some of whom were relatives or neighbors of the officer.

Although there is an assumption among some police personnel that civilian force complaints frequently involve brutality against criminal suspects, there were relatively few such complaints in the qualitative sample. Yet these complaints were fairly likely to be substantiated. In the qualitative sample, the only allegation of police punishing a suspect after an arrest involved a young robbery suspect, beaten and burned with cigarettes during interrogation. This allegation was substantiated.

Other substantiated force allegations involving criminal suspects arose in situations which differed from the crime report to which police responded. In one such case two officers responding to a report of auto stripping were interrogating a man working on a car in the street when another man intervened to persuade the officers that they were focusing on the wrong suspect. In fact, the original suspect was merely repairing his

own car, a few blocks from where the reported auto stripping was alleged to have occurred. Hostilities escalated and force was used on the third party, who happened to be an auxiliary police officer. In another case, the police intervened in what they thought was a reported robbery in progress. In fact, it was a personal dispute. The police used unnecessary force against one of the parties. In these instances, the police response appears to have been influenced by their expectations of a criminal act.

In most cases of substantiated force, there were a number of witnesses to the encounters. There was generally medical evidence. Yet there were no witnesses and no medical evidence in the "backroom justice" incident. Instead, the use of force was inferred from witnesses' descriptions of the difference in the complainant's condition, before and after he was interviewed.

Complaints alleging brutality against specific race/ethnic groups also match the public's image of the kinds of cases typically handled by the CCRB. Again, there were relatively few force allegations involving racial motivations in the qualitative sample as a whole. Yet, such cases were relatively likely to be substantiated -- an off-duty incident, involving white officers and black citizens, discussing an inter-racial police shooting; a brawl between Hispanics and whites, in which Hispanic complainants alleged assault by police and favoritism toward white combatants; the beating of young Hispanic deli-workers by white officers on patrol.

Witnesses provided at least partial support of complaints in all substantiated cases. Medical evidence was generally included. Some of these complaints attracted a substantial amount of outside scrutiny -- media attention or prosecutorial interest. Such complaints appeared to have been handled with care, in recognition of both their seriousness and their potential political sensitivity.

Even though force was less likely to arise in traffic situations than in other situation types, several "traffic: force" allegations were substantiated. Typically in these cases, victims got out of their cars to question how police responded to a traffic situation or to protest a summons against them. Words were exchanged and police responded with force. Disorderly conduct or resisting arrest was charged. Handcuffs were applied, often too tightly, giving rise to separate force allegations.

In all instances, there were witnesses to the police use of force. In a few cases crowds collected. None of these cases involved serious injury, although a few cases provided medical evidence of bruising or wrist injuries.

Although there were only a few "interpersonal" force complaints in the qualitative sample, a number of them were substantiated, at least in part -- an off-duty officer who assaulted a former brother-in-law, who had tried to date the officer's wife; an off-duty officer who drew a gun while investigating a mid-night snowball fight between teen-agers, behind his apartment

building; an off-duty officer who assaulted a man who, he mistakenly believed, had thrown a brick at his car. This last complaint also alleged that investigating officers sided with the subject officer against the complainant. Apparently, the interpersonal nature of complaints does not reduce the seriousness with which they are handled.

Interpersonal complaints were less likely to entail serious injury and medical evidence than were substantiated force allegations arising in other situations. Most interpersonal complaints provided multiple witnesses, however, supporting the complainant's allegations.

Canvasses for witnesses were conducted in many substantiated force complaints. New witnesses were seldom discovered. In one case, however, a single witness found in a canvass provided definitive evidence, transforming the case from unsubstantiated to substantiated.

None of the substantiated force complaints involved officers with extensive prior complaint histories. The seriousness of the complaints in the group, along with the relatively substantial body of evidence available, provided sufficient justification for investigation. Substantiated force complaints were clearly not investigated because of the officer's record alone.

Many substantiated force complaints contained additional allegations that were not substantiated -- generally, allegations of discourtesy, the threat of force or arrest, improper summons,

and force for which there was insufficient evidence to justify substantiation. In a few instances, accompanying allegations about the issuing of a summons or the use of force were exonerated as lawful and proper. At times, accompanying officers were found not to have been involved in the alleged violations; charges against them were dropped and the file expunged.

In several instances, charges of "other misconduct" were added to substantiated force findings. Other misconduct notations included various failures to follow proper procedure: "failure to make notification of police misconduct", "failure to prepare a stop-and-frisk report", and "failure to make note of officers who came to assistance." Other misconduct was also noted in some interpersonal complaints containing substantiated force allegations. The officer who investigated the mid-night snowball fight had not been carrying his shield at the time, and was cited for it. The officer who assaulted his ex-brother-in-law had been out on sick leave, and was cited for a violation of sick-leave policy. These findings of other misconduct in situations involving off-duty behavior suggest again how seriously such complaints are treated.

In a few cases containing substantiated force allegations, other dispositions were initially considered. The complainant in the snowball incident had initially agreed to early conciliation; a supervisor overruled that disposition, however, and pressed for investigation. In one of the inter-racial complaints as well, an

investigator had originally recommended that the force allegation be found unsubstantiated, arguing that the only witness was a friend of the complainant's and therefore not independent. The Board overturned this recommendation and found the allegation substantiated.

2. Substantiated Abuse of Authority Complaints

While substantiated force complaints tended to be more serious than force complaints that were not substantiated, this was not true of substantiated abuse complaints. Like substantiated force complaints, substantiated abuse complaints frequently contained additional allegations that could not be substantiated. Both types of substantiated complaints contained notations of "other misconduct", accompanying the substantiated allegation. Most complaints of both types provided witnesses who co-operated in the investigative process.

There were three distinct types of substantiated abuse complaints in the qualitative sample. Some complaints depicted clear abuse of authority in an enforcement context. Other complaints alleged abuse in a situation in which the officer was not acting in an official capacity. Other complaints were substantiated predominantly because they alleged technical violations, which were readily subject to definitive determination, along with other (generally more serious) allegations which could not be substantiated.

Substantiated abuse allegations in an enforcement context

included the most serious abuse allegations in the group, although they were not all equally serious -- an allegation of wrongful search, which led to two arrests for heroin possession; an allegation that a young suspect's sheepskin coat had been slashed, while he was being transported to the stationhouse; the alleged threat of force against teen-agers who stood laughing on the sidewalk; and an allegation that a bus driver had been detained too long while waiting for a traffic summons.

The wrongful search allegation was recognized as serious enough to be investigated even without the cooperation of the complainant or the victims. Investigation revealed that the subject officers had entered a social club in search of a man with a gun. While there, they arrested two men for heroin possession. One officer had justified the search that led to the discovery of the heroin in his memobook by claiming that he had "felt a hard object" during the frisk of a suspect. The other officer had offered no explanation of the search for drugs. Yet neither officer had filed a "stop and frisk" report. Abuse allegations against both officers were substantiated, based on the failure to file "stop and frisk" reports. In addition, the officer who had not explained the extended search which led to the discovery of heroin was cited for "wrongful search" as well.

The other relatively serious substantiated abuse complaint (the coat-slashing case) led to the discovery of "other misconduct" that had not been originally alleged. The complainant

was arrested at school following an assault on another student. He alleged that one of the officer's had threatened to "teach him a lesson" on the way to the stationhouse. One witness, a school security guard, had not seen the officer cut the boy's coat, but reported that he had been left alone in the patrol car with the suspect while the officers stopped to "call command" and pick up lunch. Witnesses agreed that the complainant's coat had not been cut before his arrest, but had been systematically slashed at some point before his release. The officers had not kept a memo book entry of the incident, but admitted that they had left the suspect briefly alone with the security guard, contrary to regulations. The allegation of coat slashing was substantiated against the officer who had held the complainant's coat in the RMP, and "other misconduct" (failure to make a memo-book entry and failure to go directly to the precinct with a prisoner) was noted for both officers.

The second group of substantiated abuse complaints did not arise in an enforcement context. One complainant, who was a clerk-typist in the complaint room of one borough's Criminal Court, alleged that the subject officer was threatening and abusive when his complaint was not typed quickly enough. There were many witnesses. In another case, a building's doorman alleged that an officer was rude and abusive after his car's tires had been slashed. The officer had been parked all day in front of the building. The original complaint alleged only dis-

courtesy. Yet investigators discovered that there was no room for the officer to have parked legally; if his testimony were true, he must have been blocking a hydrant. An abuse allegation -- that he had parked in front of a hydrant for more than seven hours while on duty -- was substantiated.

In the final group of complaints containing substantiated abuse allegations, substantiation of abuse allegations rested on the disposition of alleged procedural violations. In one case, an officer mistakenly told an attorney in traffic court that he was sitting in a section reserved for officers and would have to move. The investigator pointed out that the complainant was guilty of aggravating the situation. But the officer had, in fact, been mistaken about the seating rules and had been rude in response to the complainant. These allegations were substantiated.

Other cases of 'technical violations' arose in traffic situations and involved improper confiscation of property. In one case, after being cut off repeatedly in traffic, an irate driver had attacked a decoy taxicab (driven by plainclothes police officers) with a tire iron. His complaint included allegations of wrongful search, threats of force and arrest, and an ethnic slur. Because there were no independent witnesses, none of the allegations could be substantiated. Yet the officers had improperly confiscated and vouchered the tire iron, which had nearly been used as a weapon against them. That allegation was

substantiated.

In another traffic incident, the driver of a licensed taxicab from another city was operating illegally in Queens. Several summonses were properly issued. The driver alleged that he should not have received them. Yet he also alleged that the officers had improperly confiscated his license plates, an act which violated Taxi and Limousine regulations.

The CCRB investigator concluded that the officers, who had attempted to contact the Taxi and Limousine Commission for guidance about whether the driver should be permitted to continue operating, had acted in a reasonable manner. The complainant's allegation of improper summonses and an improper arrest threat were exonerated. But the allegation of improper confiscation of his license plates was substantiated.

The dispositions of some substantiated abuse complaints appear to have been affected by the prior complaint histories of the subject officers. In the case of the officer who had berated doormen near his parking space, the CCRB supervisor decided that the complaint was not appropriate for conciliation, primarily because of the extensive prior complaint record of the subject officer. One of the officers who improperly confiscated taxi license plates also had an extensive complaint record. In this case, however, the finding of substantiation was based upon a point of law. Conciliation would not have been appropriate because a definitive disposition was likely.

As a group, substantiated abuse complaints were less serious than expected. None of them involved citizens protesting false arrest for disorderly conduct, resisting arrest or other "cover charges." Few substantiated abuse complaints contained allegations of serious violations of the civil liberties of citizens. Yet substantiated abuse complaints were more serious than typical conciliated abuse complaints; there were few substantiated complaints about improper issuing of traffic summonses, complaints that appear to have been routinely channeled toward conciliation or disposed as exonerated.

3. Substantiated Discourtesy Complaints

Very few of the discourtesy complaints (i.e., cases in which discourtesy is the most serious allegation) arising in traffic, crime report, patrol and dispute situations were substantiated. We reviewed all of them. Some of the discourtesy cases identified on the computer tape as substantiated had been miscoded; complainants had not cooperated and the investigations were closed. We were left with only four substantiated discourtesy complaints.

Substantiated discourtesy complaints were no more serious than other discourtesy complaints reviewed. Most would have been appropriate for conciliation but for the extensiveness of the officer's prior complaint record or the presence of a cooperative witnesses. In one case, in fact, the complainant had agreed to conciliation, but a supervisor rejected that disposition because

of the officer's complaint record.

Some of the substantiated complaints appeared to be relatively minor, even compared to other discourtesy complaints. In one case, the complainant alleged that the subject officer had called him "stupid", said "shut up" and hurled his license and registration back at him in a traffic encounter. In another case, the complainant alleged that officers in a traffic situation had said "shut up", "big mouth" and "god dammit". One board member noted that the words were "mild" in this case.

In most cases, witnesses provided the primary grounds for substantiation. In some cases, this was so even though the witness was associated with the complainant. In one case, the investigator reported that "although the witness is a personal friend of the complainant and not truly independent, he discussed the case with honesty." The witness believed that both the complainant and the officer were at fault in the encounter, but confirmed the complainant's allegation that the officer had been rude.

The complaint which was "almost conciliated" contained no witnesses. The officer admitted having used an obscenity, with an explanation. He reported that the complainant had questioned his authority when he kept her from entering a parking garage and had said to the officer, "Who the fuck are you?" He claims he had only repeated her words back to her. His account of the incident constituted an admission of the use of an obscenity and

the discourtesy allegation was substantiated.

In some cases, substantiated discourtesy complaints had a subtext of alleged abuse, but abuse allegations were not separately listed and disposed. In one of the traffic complaints, the complainant believed that the officers were headed the wrong way on a one-way street and, therefore, were themselves at fault. The officers explained that they had stopped in that direction to apprehend the complainant who, they claim, was driving recklessly. In addition to the substantiated discourtesy charge, the officers were cited for "other misconduct", failure to make a memo book entry of the encounter. The officers' traffic behavior was found to be "legal", but the implicit abuse allegation was not separately disposed.

Similarly, another complaint alleged that an officer had refused to chase three-card monte operators into traffic, after the complainant pointed them out to the officer. The complainant also alleged that the officer had said, "Get lost, take a walk," when he insisted that the officer take further action. The investigator found that the officer's reluctance to pursue the hustlers gave the complainant a reason to "vent his disappointment" and that the officer had failed to mollify the complainant satisfactorily. Again, the discourtesy allegation was substantiated, but the issue of whether the officer should have taken further action was not specifically addressed. In both cases, there appears to be an underlying recognition of broad officer discretion

in areas of non-serious enforcement, but a strict adherence to a standard of civility.

In each of the substantiated discourtesy complaints, there were discernible reasons why the complaint merited both investigation and substantiation. Substantiated discourtesy complaints were not noticeably more serious than discourtesy complaints that were otherwise disposed. As we will see in the following section, the sanctions imposed in such cases tended to be less punitive than those imposed in complaints containing other types of allegations.

E. Sanctions Arising from Substantiated Complaints

When an allegation is substantiated or when other misconduct is noted, the process of case disposition includes determining where the subject officer will be referred for sanction. There are three possible outcomes. The most lenient outcome is that the officer will be referred to his commanding officer for instructions regarding appropriate procedure. The officer may also be referred to his commanding officer for "command discipline." If this is done, the most serious punishment that can be imposed is the loss of five vacation days. The harshest outcome is the lodging of "charges and specifications." If this is done, the officer goes to departmental trial. If the officer is convicted at departmental trial, a wide range of sanctions may be imposed, ranging from loss of a few vacation days through suspension and dismissal. Any officer who wishes to contest a substantiated al-

legation in which command discipline has been ordered may request a departmental trial.

"Substantiated force complaints were most likely to lead to "charges and specifications". In the qualitative sample, almost all of the substantiated force complaints and a few substantiated abuse complaints were so disposed. Most other complaints were referred to command discipline. A few relatively minor substantiated abuse complaints were judged appropriate for instructions.

The relationship between the seriousness of substantiated allegations and the harshness of disciplinary referral is evident if we examine the 1984 quantitative sample as well. (See Table 6.1). Substantiated force complaints were far more likely to lead to "charges and specifications" (61%) than were all other types of substantiated complaints (21%). There was little difference between abuse and discourtesy allegations in terms of the type of disciplinary referral, although the numbers in each category are small.

Table 6.1

Disciplinary Referrals in Substantiated Complaints
by Complaint Type

<u>Disciplinary Referral</u>	<u>Complaint Types</u>		
	<u>Force</u>	<u>All Other</u>	<u>All Substantiated Complaints</u>
Charges and Specifications	61% (59)	21% (9)	49% (68)
Command Discipline	33 (32)	56 (24)	40 (56)
Instructions	6 (6)	23 (10)	11 (16)
Total	100% (97)	100% (43)	100% (140)

$\chi^2=28.35$, $DF=2$, $p<.01$

In several instances, the Board rejected the recommendations made by investigators and their supervisors about the type of disciplinary referral to be made. In a number of substantiated force complaints in which investigators and supervisors had recommended command discipline, the Board voted instead that charges and specifications be lodged. In a few substantiated discourtesy complaints, the Board voted for command discipline, rejecting a recommendation of "instructions". The Board was relatively active in determining disciplinary referrals; if a recom-

mentation was not accepted by the Board, a harsher referral generally was made.

The notation of "other misconduct" can lead to a separate decision regarding a disciplinary referral. One officer, involved in an off-duty fight with a complainant, was sent to departmental trial after the force allegation was substantiated. Two officers who came upon the incident were charged with other misconduct, "failure to make proper notification of police misbehavior." They were referred to command discipline. Although notation of "other misconduct" arising in unsubstantiated complaints can and does give rise to disciplinary referrals, in the qualitative sample there were only a few such cases and none led to "charges and specifications." The quantitative analysis identified only one unsubstantiated case in which "charges and specifications" were lodged because other misconduct was noted. In the majority of unsubstantiated OMN complaints (20 of 31), command discipline was recommended.

In the cases which did lead to departmental trial or command discipline, files often did not contain a record of the eventual sanctions imposed on the officer by the Police Department. In some cases, this was because these decisions had not yet been made. In other cases, this information was missing from the file. Most of the sanctions recorded were relatively mild -- the loss of four or five vacation days with the option to perform extra tours of duty, the loss of discretionary benefits for two

tours. In a few recorded cases, decided at departmental trial, officers lost considerably more vacation days (in one case, 10; in another, 17). Yet, at the conclusion of data collection, final decisions had not been reached in substantiated complaints alleging the most serious misconduct. Heavier sanctions may have been ultimately imposed if convictions were obtained in these cases.

F. Conclusions

Most investigated complaints were clearly distinguishable from complaints that either "dropped out" or were "conciliated" in terms of either evidentiary strength, complaint seriousness, and/or the prior complaint history of the subject officer. Yet, there were some exceptions. In the qualitative sample, several "unfounded" complaints resembled cases that had been closed without investigation, as either "withdrawn" or "no police officer identified". Although there are discernible reasons for classifying these complaints as "unfounded", such complaints were often similar in character to complaints that dropped out.

It was also apparent that many "discourtesy only" complaints were not markedly different from uninvestigated discourtesy complaints in terms of the characteristics listed above. In some of these cases, conciliation had been offered and refused. Yet in a few instances, there was no apparent reason why a conciliation offer had not been made.

Investigated force complaints, on the other hand, were

clearly both more serious and stronger in evidentiary terms than force complaints that had not been investigated. This apparent "proportionality" in the treatment of force complaints is evident within the investigated group as well. Substantiated force complaints in the qualitative sample were markedly more serious, as well as stronger in evidentiary terms, than investigated force complaints that were not substantiated.

Proportionality was also apparent in the recommendation of disciplinary referrals. Force complaints were far more likely to lead to departmental trial than complaints that did not allege force.

There was clear evidence of the Board's involvement in investigated cases. Some cases were sent back for more investigation, some recommended dispositions were revised, and several recommended disciplinary referrals were upgraded. In these instances, the Board's review generally favored the interests of the complainant.

In general, complaints that involved relatively technical issues were more likely to reach definitive determination (either exoneration or substantiation) than complaints that involved the appropriate use of police discretion. It appears easier to decide whether or not a particular statute or regulation was applied correctly than to resolve questions involving the necessity of force or the threat of arrest.

The issue of the relative "independence" of witnesses arose

in a number of investigated complaints. The CCRB presumes that any connection between a witness and one of the parties to the complaint is enough to challenge that witness's independence and render his or her testimony biased, if it supports the testimony of the party to whom the witness is connected. Although the testimony of witnesses who are not deemed "independent" usually does not add to the body of evidence because of this presumption, there were a few substantiated complaints in the qualitative sample in which this presumption did not hold, despite the fact that witnesses were not genuinely independent. Yet most complaints that lacked independent witness testimony were disposed as unsubstantiated unless there was some other independent evidence supporting the position of one of the parties.⁴

⁴ Theoretically, there are three ways in which the presumed bias of non-independent testimony can be overcome in the absence of other independent evidence. The witness's credibility could be tested through aggressive and vigorous cross-examination. Generally, this is not done, perhaps because of the "voluntary" status of all witnesses in these proceedings and perhaps because the CCRB staff fear being accused of harrassing witnesses.

A second approach to testing witness credibility would be to assess its consistency with a detailed account of the situation in which the incident took place and the sequence of actions that constituted the incident. This is done to some extent in cases of obviously serious allegations, but it imposes a heavier demand on the staff and the preparation of such detailed descriptions in all cases may not be feasible or desirable.

Finally, witness credibility might be assessed by providing the final arbiters, in this case, the members of the Board, with an opportunity to observe the witnesses and how they answer the questions put to them. Thus, jurors in a criminal trial can be influenced by the tone, clarity and definiteness of a witness, as well as by his or her body language when giving testimony. This

The presumption that the testimony of "non-independent" witnesses is suspect is a reasonable one for investigators to make, although reasonable people can disagree on whether various types of connections are sufficient to deprive a witness of his "independent" status. The problem with this presumption in the CCRB context, however, is that it tends to become a "rule of evidence" when there are no viable opportunities to rebut it. If such opportunities could be created in selected cases, through careful cross-examination, or more detailed descriptions of situations and sequences, or Board member observation of witnesses, a more definitive disposition might be reached in some cases which are disposed as unsubstantiated under present procedures.

The qualitative analysis showed that the high proportion of investigated complaints that are "unsubstantiated" is often not simply a function of "insufficient evidence" to prove the complainant's allegations or to determine the impropriety of alleged behavior. It became evident that the variety of dispositional alternatives permitted by the CCRB gives rise to a "dual burden of proof." Evidence must support either the complainant or the subject officer if a definitive disposition is to be reached. In several unsubstantiated complaints, the "insufficiency of evidence" lay in the case supporting the subject officer, rather

approach is not applicable at the present time, since Board members never have an opportunity to observe witnesses.

than the complainant. Although investigators noted in their reports that the officer's actions appeared "reasonable and proper", there was not enough evidence to exonerate the officer.

The range of possible dispositions at the CCRB permits a number of subtle dispositional distinctions to be made -- complaints that are unfounded, but not expunged; complaints that are unsubstantiated with "other misconduct noted." Although many complaints are not substantiated, there are many varieties of lessened culpability for subject officers -- unsubstantiated, but other misconduct noted; unsubstantiated; exonerated or unfounded, but not expunged; exonerated or unfounded and expunged. Although few cases are substantiated, only a small proportion of subject officers are completely cleared.

The qualitative analysis reviewed individual cases to examine the ways in which various dispositional alternatives were actually employed at CCRB and to explore why such a small proportion of complaints were substantiated. In most cases, there were no grounds for substantiating cases which reached other dispositions. In a few cases, questions arose about the disposition of secondary allegations in particular complaints. It appeared that in some cases, the investigator's overall impression of a complaint may have influenced the dispositional recommendations of lesser allegations. Yet, although we focused in detail on such complaints, the number of cases in which this may have happened was small.

On the whole, the qualitative review of investigated complaints supports the quantitative finding of rationality and proportionality in the CCRB dispositional process, by demonstrating that investigated cases were generally more serious and offered more evidence than cases which dropped out or were conciliated. In addition, it provides no support for the contention that a significant number of unsubstantiated complaints were disposed in a manner that was unfair to complainants. In general, the qualitative analysis revealed that most dispositions in investigated complaints "made sense" within the parameters of the existing set of dispositional alternatives for investigated complaints.

Chapter VII

Conclusion

The empirical research presented in this report provides detailed information on the kinds of complaints filed with the CCRB and the manner in which they are disposed. As a whole, Vera's research points to a gap between the public image of the CCRB -- as an agency which handles a caseload composed primarily of complaints alleging serious police misconduct and which favors police officers in its disposition of that caseload -- and the reality of the agency's caseload and performance.

Together with the findings of our review of relevant literature, Vera's research on the CCRB dispositional process permits an assessment of the thoroughness and consistency of that process and of the extent to which it appears biased against particular groups of civilian complainants. It also allows some assessment of the agency's ability to meet the various other goals of civilian complaint review processes -- to improve relations between police and the community and to control police officer misbehavior.

This chapter summarizes the major findings of the research and offers recommendations designed to enhance the Department's ability to meet the goals of civilian complaint review. In the first three sections, a review of the agency's ability to meet the primary goals of the civilian complaint review process is presented. First, findings concerning the operations, fairness

and accuracy of the complaint review process are discussed. The capacity of the CCRB to affect police-community relations is then considered in the light of the empirical research, the findings of other recent research studies, and recent changes in CCRB policy, operations and structure. Next, the CCRB's contribution to departmental efforts to control officer misconduct is considered, in relation to the findings of this study and of other relevant literature, as well as recent departmental experience. Finally, research findings concerning the nature of the CCRB caseload are presented -- the kinds of complaints filed, the characteristics of officers who are the subject of complaints, and the situations in which complaints arose. At the end of each section, recommendations are offered, addressed to the issues discussed in that section.

A. The Operations, Fairness and Accuracy of the Complaint Review Process

1. The Nature of the CCRB Dispositional Process

This research provided little direct information on the accessibility of the CCRB to potential complainants, because it reviewed information only on complaints that were actually filed, not on potential complaints. The third part of the research, to be completed on the first half of 1988, will provide information on the experiences of complainants in attempting to file complaints.

Winick's research (1987) does not deal with the efforts of complainants to lodge complaints, but it does suggest that there

is room for improvement in the public awareness of complaint review processes in New York State as a whole. Winick found that the majority of surveyed citizens (59%) were unaware of procedures for complaining about police abuse and that civilian review boards were not prominently mentioned as a way of complaining by those who claimed knowledge of such procedures (15% statewide).

The review of case outcomes and case files found the CCRB to be thorough in its efforts to reach some resolution (formal or informal) of filed complaints. The qualitative research revealed extensive, fully documented efforts to contact complainants and witnesses, to identify subject officers, and to secure relevant evidentiary documents. Canvasses for additional witnesses were not uncommon in the relatively serious cases.

There was considerable triage in the CCRB dispositional process in 1984 based on: (1) the extent of complainant-victim participation, (2) complaint seriousness and (3) evidentiary strength. The qualitative analyses suggest that the CCRB staff made a greater effort to keep relatively serious complaints from dropping out of the dispositional process. When complainants were unavailable or uncooperative, there was little likelihood of substantiation, and staff were fairly quick to recommend closure of these cases without further investigation (especially if the charges were of a less serious nature). In fact, complaints that dropped out without investigation differed from complaints that reached investigation in several respects: they were generally less serious, weaker in evidentiary terms, and more likely to

contain allegations that were less specific than in the complaints that reached investigation.

Both the quantitative and the qualitative analyses showed that the decision to offer conciliation was powerfully affected by considerations of complaint seriousness and evidentiary strength. Discourtesy complaints that did not drop out were far more likely to be conciliated than complaints containing more serious allegations. Force complaints in which no injury was alleged were more likely to be conciliated than those in which some injury was alleged. The more serious the alleged injury, the less likely was the case to be conciliated. In 1984, conciliation appeared to be an effective means of workload management, providing some resolution in less serious complaints, most of which did not present enough evidence to produce a more definitive disposition following full investigation.

Although the conciliation process appeared to work as "triage", it is unclear whether it served equally well as a means of providing satisfactory resolution to complainants. This issue will be considered further in the discussion of police-community relations, below.

The process of determining whether or not a complaint would be investigated at the CCRB appeared to be rational and proportionate to complaint seriousness and evidentiary strength. The early stages of complaint resolution (drop out and conciliation) effectively screened out of the investigative process large numbers of complaints in which there was no participating com-

plainant or victim, no supporting evidence and/or no allegation of serious misconduct. The frequent staff judgment that there was little likelihood of substantiation in such complaints appeared appropriate.

Differences in dispositional outcomes among various types of investigated complaints appeared to stem from two factors: the amount of pre-investigative screening to which complaints of various types were subjected and the nature of the Police Department's prohibitions regarding various types of alleged misconduct. For some types of complaints (discourtesy complaints, complaints arising in patrol situations), disposition without full investigation was very probable. Complaints of these types that were held for investigation tended to have greater evidentiary strength and, as a result, when complaints of these types were investigated, they were less likely to be disposed as unsubstantiated than were complaints of other types.

Inherent differences in the nature of alleged behavior were also related to differences in the dispositional outcomes of investigated complaints. Discourtesy allegations were very unlikely to be disposed by exoneration, because the type of behavior alleged (rudeness) is defined by the Department as unprofessional, whatever the circumstances in which it takes place. On the other hand, allegations of other types (misuse of a service revolver, allegedly improper summonses) were much more frequently disposed by exoneration than other investigated com-

plaints as behavior that under the circumstances could be deemed justified and proper.

The analysis of how the dispositional process at the CCRB works helped to explain why so many complaints were disposed as unsubstantiated. In some cases, although the allegations were plausible and pointed to wrong-doing on the part of the subject officer, there was no preponderance of evidence to support a definitive determination. The less serious cases of this type were likely to be conciliated; the more serious ones were usually disposed as unsubstantiated, following a full investigation.

It is important to note, however, that data support the view that the evidence available in many of the unsubstantiated cases pointed more strongly toward exoneration than toward substantiation. The distinctions drawn here, among complaints disposed as unsubstantiated, result from the dual burden of proof which the CCRB dispositional process attempts to satisfy. In investigated cases, the CCRB not only asks whether the alleged misconduct can be proved (i.e., if substantiation is merited), it also asks whether the alleged misconduct can be disproved (i.e., if dispositions of "unfounded" or "exonerated" are appropriate.) In this regard, the CCRB process differs from the criminal court model, which seeks evidence to convict, and acquits in the absence of such evidence, but is not responsible for demonstrating the defendant's innocence.

Our review uncovered only a few complaints in the qualitative sample which we thought might have been substantiated on the

basis of the available evidence, but were otherwise disposed. It should be remembered that the review of case files was unable to assess the quality of investigative actions or to determine whether more extensive efforts might have produced more definitive evidence. In most cases in the qualitative sample, the decisions made appeared to be appropriate given the available evidence and the structure of possible dispositions at the CCRB.

Why, then, were so few complaints substantiated?

The relatively low proportion of substantiated complaints (3% of all complaints and 14% of all investigated complaints) appears to result from the nature of the cases themselves. Many complaints cannot be investigated because they are in some sense incomplete (no participating complainant or victim, no identified subject officer). In addition, many complaints are inherently inappropriate for substantiation because even a thorough investigation does not surface sufficient evidentiary support for the allegations (an independent witness or other form of corroboration).

Other complaints proved to be difficult to substantiate because the type of conduct alleged could be justified by situational exigencies. (This is particularly true of allegations of unnecessary force and improper enforcement and distinguishes such complaints from allegations of ethnic slur or discourtesy.) Because officers are entitled, for example, to use force or to search citizens in some situations, it is difficult for com-

plainants to establish that the force or search was inappropriate in the particular case.

Another obstacle to substantiation is the almost uniform denial of allegations by subject officers. Not only did officers accused in the 1984 caseload of wrong-doing automatically deny the allegations, but they were also usually supported in these denials by their partners and other officer witnesses. The testimony of fellow officers was generally not viewed as "independent" by CCRB investigators and did not, therefore, constitute sufficient evidence for exoneration.

In the face of the formidable obstacles to substantiation, the CCRB appeared to perform at least rationally and consistently, as a complaint resolution mechanism governed by rules of evidence. The relative seriousness of complaints affected outcomes at all stages of the dispositional process. Those complaints which resulted in disciplinary recommendations by the CCRB contained some of the most serious allegations in our data set, and the seriousness of the disciplinary referral made by the CCRB reflected the relative seriousness of the alleged behavior.

Vera's review of the investigative and dispositional process provided no evidence that the process as a whole was unfair to complainants in general or to specific subgroups of complainants. Although complainant groups differed in the extent to which they participated in the CCRB process or agreed to accept conciliation, quantitative analyses showed no apparent bias against minority victim-complainants. Investigated complaints involving

minority victims were somewhat more likely to be substantiated, and somewhat less likely to be disposed as exonerated and/or unfounded, than investigated complaints involving white victim-complainants.

In addition, it appeared that the CCRB was consistent in its handling of complaints against various groups of subject officers as well as various groups of complainants. Quantitative and qualitative analysis revealed that investigative outcomes were determined primarily by characteristics of the complaints themselves, rather than the characteristics of complainants or the officers against whom they complained.

2. Structural Issues Regarding the Fairness of the CCRB Process

Many critics of the CCRB have alleged that the agency is inherently unfair, because of its structural relationship to the Department itself. The primary public criticism levelled against the CCRB since its inception has been that the Board which determines the dispositions of citizen complaints of police misconduct has been inherently biased against complainants because members of the Board have been civilian employees of the Department.

This research suggests that the CCRB dispositional process is not biased against particular groups of complainants. It also suggests that the limited volume of substantiated complaints is not a result of unfairness in the dispositional process, but reflects the lack of supportive evidence in filed complaints and

the inherent difficulties of reaching definitive determinations of abuse in areas where police officers have, as a necessity, substantial discretion.

In any event, it should be noted that the Board does have the power to reject or modify the dispositional recommendations of CCRB staff. Although the Board did not use this power very often in the 1984 cases, the Board's actions in those cases in which it did not follow the investigator's dispositional recommendations invariably favored citizen complainants. In such instances, the Board recommended more severe dispositional outcomes than the investigative recommendation.

Many of those who are not satisfied with the dispositional patterns that have emerged from the CCRB have suggested that those patterns might be changed by changing the composition of the Board itself. This is probably not so. Dispositional outcomes appear so strongly related to the underlying characteristics of filed complaints that they are unlikely to be much influenced by changes that do not affect the caseload itself. Moreover, the bulk of the dispositional processing performed at the CCRB is carried out by agency staff, with the Board reacting to dispositional recommendations made by the staff. In the majority of the 1984 cases, these dispositional recommendations were accepted by the Board. The Board does not appear to have played the primary dispositional role envisioned by CCRB critics, but instead has provided a final level of review to ensure the fairness of the dispositional process.

In any event, neither our data nor literature in the field supports the view that an inherent structural obstacle to fairness lies in the fact that the Board has been composed of Police Department employees, reports to the Police Commissioner and responds to investigations conducted by sworn police officers. The argument that "internal" complaint review processes are inherently unfair has been strongly countered by Kerstetter (1985), who points to the greater investigative powers of internal review, the empirical finding that internal mechanisms are more likely to substantiate complaints than external mechanisms, and the relative inefficacy of "external" review boards as a means of influencing police officers. The Kerstetter argument has been further supported in the Curran and Zuccotti reports. The Curran Commission, which reviewed files from civilian complaint review agencies as well as the research literature, found that internal systems administered by police professionals provided more vigorous investigation and more stringent adjudication than external procedures.

Similarly, the Zuccotti Commission cites Kerstetter in pointing to the greater effectiveness of internal complaint procedures -- the superiority of peer review as a means of affecting police misbehavior and the availability of experienced investigators. Unlike the Curran Commission, the Zuccotti report also cites the disadvantages of internal systems recognized by Kerstetter -- the fact that external review boards have greater credibility with the public, in spite of their lesser ability to

substantiate complaints or to discipline police. A central finding of the Zuccotti Commission is that the CCRB "does not enjoy an acceptable level of public confidence as a fair, objective and effective mechanism for reviewing citizen complaints against police officers" (Vol. I, p.9). This view contrasts in tone and emphasis with that of the Curran report, although there is substantive agreement on the relative strength of internal and external review procedures.

The Zuccotti Commission concurs with Kerstetter in recommending a "hybrid" review board, which might share the advantages of internal and external review procedures. It suggests that the CCRB, with the addition of civilian members, will satisfy the requirements of such a structure, and thereby retain the superiority of internal investigation without relinquishing the improved credibility gained by providing some civilian review of those investigations.

Vera's review of the CCRB process is also congruent with Kerstetter's analysis. The quantitative and qualitative analyses suggest that the 1984 CCRB complaints were handled impartially, consistently and fairly, in spite of the fact that CCRB investigators, and the Board itself, were not fully independent of the New York City Police Department.

Yet it does appear likely that aspects of the CCRB process -- the relatively low proportion of complaints substantiated and the absence of independence from the NYPD -- are inherently unsatisfactory to complainants and citizen advocacy groups.

Civilian Board members with no Police Department attachment are not likely to change substantially the CCRB dispositional process or outcomes, but they may lessen the extent to which that process is seen as serving and protecting the interests of the Department.

3. Recommendations About the CCRB Dispositional Process and Structure

a. Recommendations About the Dispositional Process

Recent literature suggests that many complaints about perceived police misconduct are not filed and that many citizens were unaware of civilian complaint review procedures. This finding points to a need for greater outreach to improve public knowledge of the process. A public information campaign, designed to increase citizen awareness of the existence and purpose of the CCRB, seems appropriate.

The Zuccotti Commission specifically recommends that the CCRB take steps to control the demands made upon its staff by establishing "standards of review and investigation" that might reduce the time spent pursuing "cases that cannot be brought to any reasonable conclusion" (Vol. I, p. 64). They recommend concentrating resources on more serious complaints. These recommendations appear to point to a reduction in the time spent processing complaints that ultimately drop out of the CCRB process, those that are closed through conciliation and, possibly, those that are disposed as unsubstantiated.

The Vera review indicates, however, that the dispositional process already permits a great deal of "triage". In 1984, a large proportion of complaints were closed either through conciliation or by allowing administrative closure in complaints in which complainants were inaccessible or uncooperative. Complaints so disposed required far less work than complaints that were fully investigated and there was no evidence that the effort devoted to such cases could be reduced significantly.

The Vera review also suggested that conciliation, as employed in 1984, was an effective form of workload management or "triage". Yet the effect of the development of the Conciliation Unit at the end of 1984 may have been counter-productive in this regard. As discussed in Chapter II, once the Conciliation Unit was fully operative, the proportion of complaints conciliated at the CCRB dropped dramatically. At the same time, there was a significant increase in the proportion of complaints that dropped out of the process without investigation and the proportion of cases that were disposed as unsubstantiated. Thus, the operation of the Conciliation Unit apparently increased the number of complaints disposed in ways that were least likely to satisfy complainants. Although fewer complainants may have been pressured into agreeing to the conciliation process without fully understanding what it entailed, it also appears that fewer complaints reached potentially satisfying outcomes.

The Conciliation Unit was not established as a means of improving efficiency, but rather as a means of making the CCRB pro-

cess more responsive to the desires of complainants. Members of the Conciliation Unit, who are themselves civilian employees of the Police Department, are trained to provide complainants with a detailed explanation of the various dispositional alternatives at the CCRB, including the decision to accept conciliation. Yet it should be noted that development of the Conciliation Unit did not affect the nature of the conciliation process at the CCRB. That process does not actually resolve differences between the complainant and the subject officer. Instead, it serves as a form of tacit apology to the complainant and provides a general review for the subject officer of the nature of allegations filed.

This part of the research reveals little about how the conciliation process was perceived by complainants and whether it produced the kinds of outcomes they desired. This issue will be explored further in the survey of complainants. But it is clearly possible that gains made by the Conciliation Unit in terms of complainant satisfaction are offset by the increased proportion of inherently unsatisfactory outcomes. The effect of the development of the Conciliation Unit, in fact, appears to conflict with a central recommendation of the research literature -- that complaint review boards become less "adversarial" by increasing the extent of conciliation and mediation, processes and outcomes which, some argue, are more in keeping with the type of complaints typically filed.

In keeping with this recommendation, it seems appropriate that the CCRB employ some form of informal complaint resolution

as a means of caseload management and case disposition to the extent that it did in most of 1984. To do so, it should review and probably loosen the criteria used to identify cases for conciliation. It might also consider ways to make this dispositional alternative more satisfactory to complainants. In some cases, this would entail a more fully developed form of mediation. In other cases, it would require fuller communication with complainants to explain the steps taken by the CCRB and by the Department in handling and resolving the complaint. Complainants may need assurance that the CCRB did in fact discuss the incident with the subject officer and that it does in fact maintain records about the officer's history of complaints.

Because unsubstantiated complaints are likely to satisfy neither the complainant nor the subject officer, a reduction in the proportion of complaints that are so disposed would be desirable. But this research did not suggest any specific strategies for achieving that end, other than continued reliance on informal resolution as "triage". In this regard, a larger number of unsubstantiated discourtesy complaints might well have been conciliated; but for more serious complaints that remain unsubstantiated, there appears to be little possibility of appropriate alternative disposition. Indeed, this study suggested that there are few unsubstantiated complaints which can be substantiated, even if subjected to a slightly less stringent standard of proof.

b. Recommendations About the Structure of the CCRB

The recent decision of the City Council to add civilian members to the Board is directly responsive to the criticism of the Conyers committee, as well as to the long-standing public criticism of the CCRB. As noted above, Kerstetter (1985) argues that external civilian complaint review boards have far more credibility with the public than internal boards, even though the latter seem more successful in substantiating complaints. Whether or not the addition of civilian members to the CCRB Board affects dispositional outcomes, it may prove an effective means of increasing public trust in the dispositional process. This study, therefore, supports the action of the City Council and the Mayor -- not on the grounds that civilian membership on the Board is likely to increase substantially the proportion of complaints that are definitively disposed, given the current evidentiary presumptions of the process, but because it might increase the credibility of the CCRB with the public.

B. Improving Police-Community Relations

1. The CCRB and Police-Community Relations

Civilian complaint review panels were generally established in the late 1960's during a period of growing conflict between minority communities and predominantly white police departments. Civilian complaint review became the symbolic center of the developing strategic response to this conflict, along with efforts to increase minority representation within the police force, to develop community-oriented team-policing units, and to provide designated community-liaison officers within local precincts.

The demand that civilian complaint review procedures be established reflected the desire of community spokesmen that police abuse of citizens be publicly recognized and responded to. In New York City in the late sixties, that demand became inextricably linked to the concept of an externally controlled complaint review board (in fact, a Board composed of civilians and police department employees, matching the structure established by the recent provisions of the City Charter). The defeat of such a Board by referendum during the administration of Mayor John Lindsay was interpreted by some as symbolizing the Department's apparent rejection of a community demand that police abuse of citizens be acknowledged. This local, historical context has not been forgotten; it still sets limits on the ability of the CCRB to serve as a mechanism for improving police-community relations.

In theory, however, even internally controlled complaint review boards can serve the goal of improving police-community relations. Such procedures might do so in two ways: first, fair complaint review procedures might, if they were recognized, show the community that the Department is open and responsive to public criticism; second, complaint review dispositions might demonstrate the Department's resolve to respond to and punish police abuse of citizens.

The quantitative and qualitative research described in this report does not provide direct information on the extent to which existing complaint review procedures satisfied individuals who filed complaints with the CCRB. (The third piece of Vera's re-

search is designed to explore these issues.) Yet it can provide some general insight into ways in which the CCRB, as constituted in 1984, might -- or might not -- have provided a means of improving police-community relations.

The CCRB did serve to provide a forum for the filing of citizen complaints against police -- nearly 7,000 of them in 1984. And, as we have seen, those complaints were subjected to a rational, proportionate and consistent dispositional process.

Yet, for several reasons, it would not be surprising if that process had little credibility with either complainants themselves or with the community as a whole: the relatively small proportion of complaints that were disposed as substantiated; the relatively large number of complaints that were not definitively disposed either way; the fact that the Board did not include civilian representatives at the time of our study; and the continuing media focus on incidents, often handled by agencies other than the CCRB, in which violent police abuse of citizens was alleged and not satisfactorily resolved.

In addition, the credibility of the CCRB among complainants may be impaired by the rather complicated set of dispositional alternatives permitted by the agency and the relatively obscure dispositional letters sent to complainants, informing them of the outcomes of their complaints.

For these reasons, this study suggests that the CCRB in 1984 made no more than a modest contribution to improving police-community relations. This is in part because the public image of

the CCRB's caseload does not conform with reality. The public image of the CCRB, as reflected in the Conyer's subcommittee findings, is that of an agency that deals overwhelmingly with serious allegations of police abuse of force, resulting in major injury to citizens -- an agency that is not independent enough from the Department to make fair and objective decisions about the validity of alleged misconduct.

2. Recommendations About Police-Community Relations

There are a few actions, beyond the revision of the City Charter which added civilians to the Board, which this study suggests might increase complainant satisfaction with the process or improve the public credibility of the CCRB. As discussed in the previous section, efforts to provide a more meaningful form of conciliation might increase the satisfaction of complainants who file the less serious types of complaints. Many of these complainants may not desire full investigation and adjudication of their complaint -- particularly if their complaints have little likelihood of substantiation. On the other hand, they may have little faith in the CCRB's offer to "conciliate" their complaints by means of a process in which they have no involvement and of which they receive no account. In such cases, a more formal mediation process might be appropriate.

Other recommendations concerning ways to improve complainant satisfaction with the CCRB process concern the type and extent of public outreach and of communication between the CCRB and complainants. The Curran Commission report calls for improvements

in the accessibility of the civilian complaint review process statewide, as well as improved reporting to complainants of the status and outcomes of their complaints. It does so on the grounds that public credibility and confidence in complaint review agencies will be enhanced by such measures.

The Commission also argues that complainants might be more satisfied with the complaint review process if they better understood the reasons for the disposition of their complaints. The Commission's recommendations were based in part on a review of complaint files. The Commission found that in many instances complainants were not informed of the disposition of their complaints. It also found that in other cases "complainants were notified only that complaints had been 'unfounded' or 'unsubstantiated', without an explanation of the bases or reasons for the decision" (Curran, Vol. I, p. 436). Vera's research on the extent of complainants' satisfaction with the CCRB process will, as one of its objectives, examine more closely the possible link between complainants' desires for more information -- about the status of their complaints and the meaning of and reasons for dispositional outcomes -- and their overall satisfaction with the process.

The research reviewed here suggests merely that efforts could usefully be made to reduce the gap between the public image of the CCRB and the actual caseload and performance of the agency. As the Curran Commission suggests, there appears to be a need for the public to be made aware that formal civilian com-

plaint review mechanisms exist, that these mechanisms have some degree of independence from the NYPD and that several outside reviewers have found the mechanisms to be equitable.

C. Controlling Police Behavior

1. Civilian Complaint Review and its Contribution to the Control of Misconduct

Civilian complaint review processes appear to be a necessary part of departmental efforts to control misconduct toward citizens. The Curran Commission found that Police Departments that have formal means of receiving, investigating and adjudicating civilian complaints are in a better position to control the use of force, develop policy concerning the use of force, and monitor the conduct of individual police officers than do other Departments (I, 251). This finding stands as an assertion that the existence of mechanisms like the CCRB improves the extent to which police departments can control officer misbehavior.

In fact, the potential of civilian complaint adjudication to control officer behavior seems quite limited. As noted in the discussion of research literature in Chapter I, complaint review mechanisms are essentially reactive. They respond to filed complaints only. They can do nothing about unreported misconduct. In addition, because so few complaints filed at the CCRB in 1984 were disposed as substantiated, or had other misconduct noted, only a small proportion of officers against whom complaints were filed were sanctioned by the Department. Given the infrequency of sanctions following involvement in the CCRB process, the

ability of the CCRB adjudication process to deter misconduct by police towards citizens seems very limited.

Moreover, most complaints, even if they were to be substantiated, do not seem likely to call for severe sanctions. As discussed above, the caseload at the CCRB in 1984 was heavily weighted with relatively non-serious complaints of minor force, abuse or discourtesy. Thus, many complaints, if they had been substantiated, would have been deemed appropriate for instructions (i.e., training) rather than the more serious sanctions which the CCRB could recommend (command discipline or departmental trial).

In short, the CCRB adjudication process is inherently lacking in the two qualities which effective deterrence is thought to require -- the certainty and the severity of punishment. Although in some instances substantial penalties are imposed in CCRB cases following departmental trial, such outcomes are infrequent. For the majority of complaints filed at the CCRB, the probability of substantiation is small and the likelihood of a severe sanction is remote.

2. Line Accountability: An Ancillary Approach to Controlling Misconduct

One way of increasing the Department's capacity to control police misconduct is to promote "line accountability" for such misconduct by making management use of information about allegations filed with the CCRB. The literature on civilian complaint review procedures argues that punishment imposed by anyone out-

side of the officer's immediate line of command has little impact on police behavior. Some argue that only by demonstrating to officers that their immediate supervisors disapprove of police abuse of citizens can such behavior be reduced (Bittner, 1983; Goldstein, 1967, 1986).

Such concerns underlay the Department's recent effort to promote line accountability, by reporting to commanding officers the names of all officers who were the subject of more than a certain number of civilian complaints in recent years. It was hoped that, by making commanding officers accountable for complaints within their command, management practices and, eventually, police culture would more actively discourage the abuse of citizens. While the objective of this initiative is generally accepted, the particular tactics adopted were controversial.

PBA officials, concerned with possible negative effects upon the careers of police officers, objected to this means of promoting "line accountability". They contended that it was unfair to report information concerning unsubstantiated complaints to commanders, who might use such information in evaluation and in delegating assignments. The PBA objections presented in court initially restrained the Department from establishing a list of officers who had received too many complaints.

In part, the PBA argument hinged on the nature of unsubstantiated complaints. They argued that in many unsubstantiated complaints "a complete exoneration might be the appropriate resolution" (Brief for Petitioner-Respondents in Caruso

vs. Ward, N.Y. App. Div.: p. 17). In contrast, the Department's argument depicted unsubstantiated complaints as neutral: "...at some point, the mere fact that a number of complaints, including those that cannot be proven but cannot be disproven, have been made becomes crucial information for the proper supervision and training of the officer." (Appellants' Brief in Caruso vs. Ward, N.Y. App. Div.: p. 15).

Our review provides some information on this point. We found that unsubstantiated complaints included a number of complaints that seemed potentially appropriate for exoneration, if there were just a bit more evidence; a few complaints that seemed potentially appropriate for substantiation, given a bit more evidence; and some in which the evidence seemed strictly neutral. These findings lend partial support to the concerns of the PBA. But, this study provides little information about the validity of the PBA's argument that the procedures proposed by the Department would unfairly affect an officer's assignments or prospects for career advancement. The proposed survey of officers who received CCRB complaints is designed to explore the perceptions of rank-and-file officers on this issue and others.

The PBA's concern with protecting the interests of individual officers, however, was not the only issue involved. The debate pitted these concerns against the broader management objectives of the Department as a whole. In appealing the restraining order, the Department won the right to inform commanders of civilian complaints. It was ruled that such action

lay within the administrative authority of the Department and was not subject to collective bargaining.

Thereafter, a new method was devised for reporting complaints and it limited the ways in which commanding officers were to use their knowledge of these complaints. Interim Order 9 (2/11/86) stipulates that commanding officers are to notify officers of new complaints against them in a conference held for "notification and training purposes only" and that commanding officers "will not conduct an official investigation of the complaint."

Commanding officers now receive a report of all civilian complaints against officers in their command, along with the records of past complaints against those officers. Commanding officers are held accountable for any aggregate increase in the number of complaints filed annually against officers in their command. These procedures were designed to increase "command accountability" without specifically designating particular officers as "high-rate offenders" against civilians.

Yet, while pursuing greater management accountability for abusive behavior, it is important that the Department be reasonably sensitive to the general concerns of police officers regarding civilian complaints. In recent interviews with police officers of varying ranks, conducted in the course of other research, it has become apparent that the goals, objectives and performance of the CCRB are not well understood. In general, officers suspect that the CCRB is biased in favor of complainants,

not appreciative of possible ignoble motives behind certain complaints, and lacking sufficient understanding of the context and situations in which alleged misbehavior takes place.

Commanding officers have voiced concern about the potentially negative and unfair impacts on officers' careers of bare complaint records, carrying no detail of the underlying incidents. Their concern differed somewhat from the PBA's resistance to reporting unsubstantiated complaints to commanding officers. They were particularly concerned about the possible reliance on arbitrary measures of "high rate" offending, based on the total number of complaints received by an officer. Commanding officers believed that, if information about complaint histories increased an officer's fear of receiving complaints, the officer might become reluctant to take action in situations which are prone to civilian complaints or in which officers reasonably believe that retaliatory complaints will be brought as a means of deterring police interference with illegal activity (e.g., drug trafficking).

The recent introduction of measures to use CCRB data to promote line accountability may become an effective part of the Department's efforts to discourage police misconduct. They should be seen, however, as an adjunct to, rather than a substitute for, the CCRB's careful review of individual complaints and sensitivity to the due process protections of subject officers.

3. Ancillary Approaches to Controlling Police Misconduct

Our review of CCRB complaints sheds some light on the debate about the etiology of police misconduct. That debate has implications for departmental strategies to increase control over misconduct by using procedures that are ancillary to the complaint review process.

As discussed in Chapter I, explanations of the origins of police abuse of citizens are of three types (Carter, 1985). Some argue that police abuse springs primarily from a few "bad apples", who repeatedly mistreat citizens with whom they come in contact. Others contend that police abuse develops in particular types of situations which foster abuse. Still others find that police abuse is a product of the general nature of policing (the "systemic" approach) -- that it is a product of the fact that the police have authority to direct citizen behavior, have a perceived need to maintain "face" in situations that challenge police authority, and are entitled to use force. They also point to the impossibility of eliminating officer discretion in decisions about the appropriate use of force.

Clearly, these three explanations of police abuse of citizens are not mutually exclusive. In this review of CCRB complaints filed in 1984, there was evidence of each type. There were relatively few complaints involving officers who seemed likely candidates for designation as "bad apples". The majority of the officers against whom complaints were filed did not have

extensive histories of prior complaints (six or more).¹ Although clearly some officers were more frequently the subject of civilian complaints than others, it is not clear whether a high frequency of complaints reflects lesser skill and training in handling potentially confrontational encounters or a greater likelihood of involvement in such encounters.

In the qualitative sample, it was apparent that complaints against subject officers who did have extensive priors were generally investigated, although the evidence did not necessarily allow substantiation. (The CCRB made an effort to focus most intensively upon such cases, but the difficulties of reaching definitive dispositions through the complaint investigation process, detailed above, affected the disposition of these complaints as well.)

It is indeed possible that the frequency of civilian complaints might provide a valuable indicator of "abusiveness", where the frequency of complaints does not result primarily from the officer's assignment. The recent decision to inform command-

¹ There was a considerable amount of missing data (2163 cases) on the number of prior complaints against subject officers. The data base does not permit us to determine the number of cases in which these data are missing because there was no identified subject officer. Our qualitative review, however, suggests that a large proportion of "dropout" cases and cases disposed as unfounded provide no information on the identity of the subject officer.

In the 1984 data set 36% (1611) of subject officers for whom this information was available had no prior complaints against them; 21% (956) had one or two prior complaints; 21% (968) had between three and five prior complaints; and 14% (614) had six or more prior complaints.

ing officers, who are in a good position to determine whether the frequency of civilian complaints can be explained by the nature of the officer's assignment, may well improve the Department's ability to use CCRB data in the identification of "bad apples". Yet it does not appear likely that efforts to control "bad apples", important as they are, will have much effect on the majority of instances of perceived police misconduct.

It has also been suggested that CCRB data might facilitate the Department's ability to identify emerging patterns of misbehavior and identify individual officers who might require some form of non-disciplinary intervention. The Curran Commission, for example, recommended "early warning" systems as a means of identifying officers who might have problems in interactions with civilians. It suggests that civilian complaints might be valuable in identifying the small proportion of "problem" officers, as well as in discovering patterns of abusive behavior.

The Vera study suggests that civilian complaints can occasionally be used in this manner, but that the frequency with which CCRB data can help identify either "problem" officers or emerging patterns of misbehavior is likely to be low. On the other hand, commanding officers supplied with information on the nature and frequency of civilian complaints may be in an improved position to determine when referral to "early warning" services are called for.

A large number of complaints do appear to spring from particular situational patterns. Many of the complaints examined in

this research arose in traffic and crime report incidents. Discourtesy and abuse allegations appeared to be particularly prevalent in traffic situations; force allegations were over-represented in crime report situations. Such situations appear to be inherently susceptible to particular kinds of alleged misconduct. It is possible that training, focused specifically on the proper handling of certain situational patterns that generate large numbers of civilian complaints might be effective in helping the Department reduce the extent of alleged police misconduct.

There were also many alleged incidents which might be explained as "systemic" in origin -- stemming not from particular types of police-citizen encounters, but rather from the nature and culture of policing. Incidents that appeared to be "systemic" in origin reflected an "us-them" approach on the part of officers in relation to civilians, and an exaggerated concern with the need to maintain "face" when confronted with any challenge to authority. Such assertions of authority took various forms, perceived by complainants variously as discourtesy, abuse of enforcement powers, and/or unnecessary use of force. Although such incidents often occurred in situations frequently thought to generate civilian complaints (traffic, for example), in "systemic" complaints the perceived cause appeared to be the nature of police-citizen interactions, rather than particular types of situations.

Again, the CCRB's case-by-case dispositional process seems not the most effective means of responding to incidents of this type. Incidents of this type may prove to be deeply rooted in station-house culture. Recent efforts to promote command accountability and to develop situation-specific training might be somewhat more effective.

4. Legality and Workmanship: Alternative Approaches to Misconduct

Some commentators point out that complaint review procedures have only limited potential impact on officer behavior because they are excessively concerned with "legality" rather than the quality of "workmanship":

Inquiries undertaken as the result of complaints about undue use of force are usually directed to determining if the accused officer transgressed against some rule, and ordinarily questions are not asked if he acted skillfully and judiciously prior to the moment when recourse to force became unavoidable (Bittner, 1986:6).

The Curran Commission reports that the multiplication of rules restricting the use of force by officers is often seen by officers as increasing their accountability rather than their effectiveness. The Commission argues that

the autonomy of the police officer on patrol and the impossibility of developing rules covering all contingencies suggest that, perhaps, departments should become increasingly concerned with the process of decision-making and the development of judgment, not simply with the final outcome of these processes. (Curran, 1987: Vol. I, 227).

The call for training designed to promote "workmanship" appears to be responsive to a concern about behavior which gives rise to complaints that are "systemic" in origin.

This study supports the finding that complaint review procedures are designed to focus more on legality than on workmanship. It showed that CCRB complaints involving specific questions of rule violation were more likely to reach definitive determination than complaints involving misconduct in areas subject to officer discretion. The CCRB's ability to respond to issues of "workmanship" appears limited.

Yet analysis of the substance of civilian complaints can help define issues concerning workmanship to be addressed in training: that officers need to be calm and dispassionate in the face of provocation; that calm investigation and information gathering at the scene of a reported crime might avert the potential necessity of using force. The Curran Commission recommended development of training designed to simulate decision-making 'scenarios' in the kinds of officer-citizen encounters that typically involve the use of force. Enhanced line accountability, informed by CCRB data, might be seen as an additional tool for promoting "workmanship" on the part of police officers.

Relatively few of the complaints studied could have been resolved by reference to precise guidelines. There was no evidence of complaints raising questions about the appropriateness of existing guidelines. (And if such complaints were to be filed, it is not clear whether the CCRB would be responsible for making broad recommendations to the Department concerning the revision or implementation of guidelines.) The primary value of the distinction between legality and workmanship in this context

is that it explains some of the limitations of the civilian complaint review processes as a means for improving police behavior towards citizens. The adversarial approach to the processing of civilian complaints holds only limited capacity for reaching firm determinations of the facts in the type of incidents most troubling to civilians and to Department managers -- incidents that call into question the appropriate use of police discretion.

5. Recommendations About Civilian Complaint Review and Efforts to Control Police Behavior

Civilian complaint review procedures appear to be a necessary but insufficient component of the Department's approach to controlling officer misconduct. This study suggests that complaint procedures need to be supplemented with measures that increase line accountability, with training that focuses on the types of incidents which frequently engender civilian complaints, and with training that is designed to enhance "workmanship" on the part of police officers.

Recent Departmental steps to use information about civilian complaints to increase "line accountability" may be a useful starting point for such measures. The Curran Commission report argues that the Department's decision to report information on all complaints to commanding officers

elevates the civilian complaint review process from mere resolution of isolated problems to a policy utilizing civilian complaints of officer misconduct to require accountability from supervisors whose function is to supervise and control the conduct of officers. (1987: Vol.I, 260).

Even though our review of the CCRB process partially supports the PBA contention that many unsubstantiated complaints represent incidents in which officers were not involved in substantive wrongdoing, we concur with the argument that information on civilian complaint can improve the supervisory capacity of commanding officers. The nature of the final complaint disposition may be less significant to commanding officers than the overall pattern of complaints received by individual officers. Commanding officers should be in a position to determine whether complaints spring from the nature of an officer's assignment or from that officer's individual approach to interaction with citizens.

But because there is merit in the argument that bare information on an officer's volume of civilian complaints may have an undue influence on that officer's career, the Department should take care to see that the use of such data is balanced and informed by the nature of assignments and other local circumstances. Commanding officers are not in a bad position to do this.

In the command and supervisory levels closest to the accused officer, a commanding officer may be able to determine that an officer's complaint history is best explained by the extent of his or her activity or the quality of his or her overall performance. In other cases, information about complaint histories may confirm the suspicion that an individual officer is having particular difficulty handling certain types of situations or as-

signments. This, in turn, might call for training or re-assignment.

In recognition of the possibility that information about civilian complaint records will influence officers' careers, the CCRB should more consistently determine which complaints are to be expunged and which complaints will remain on the permanent record of filed complaints. Our research showed an inconsistency in the application of the CCRB's working policy in this area.

Finally, an enhanced Departmental ability to communicate to officers the importance of relatively non-serious forms of police misconduct, particularly discourtesy -- behavior that erodes public trust and can lead to more serious misconduct -- is likely to have a useful influence on officers' conduct towards citizens.

D. The Nature of CCRB Complaints

1. The Incidence of Police Misconduct and the Characteristics of Officers who Receive Civilian Complaints

Civilian complaint review procedures are frequently linked in the public mind with issues of police brutality and racial bias within police departments. Analysis of filed civilian complaints does not permit any estimate to be made of the extent and frequency of these phenomena. This is in part because not all incidents involving brutality, abuse, and bigotry on the part of police officers are reported to complaint review boards. It is difficult to determine what proportion of actual police misconduct is represented by reported complaints.

Recent research, discussed in Chapter I, has bearing on these issues. Winick's survey of New York State citizens (1987), funded by the Curran Commission, revealed that a relatively small proportion of citizens had experienced (5%) or witnessed (17%) an incident of perceived police misconduct within the past five years, but that the majority of those who had (63%) did not lodge official complaints about the incident. Winick's survey also revealed that many citizens were unaware of the existence of civilian complaint review procedures.

In spite of the finding that many incidents of perceived police misconduct were not reported, the findings of the various studies of the Curran Commission as a whole (Bayley and Garofalo, 1987; Croft and Austin, 1987) led it to conclude that the misuse of force by police in New York State is relatively infrequent, neither pervasive nor systemic, and not disproportionately directed against minorities (after controlling for ethnic differences in the prevalence and frequency of criminal involvement).

Although our review of complaints filed in 1984 does not provide information on the extent of police misconduct in New York City, it does provide some information about the characteristics of police officers who were the subject of complaints in the sampled year, 1984. A review of departmental files revealed that the likelihood that officers would be the subject of civilian complaints in 1984 was related to assignment, experience on the job and officer gender. Officer ethnicity was not re-

lated to the likelihood that civilian complaints had been filed against an officer.

Among officers who did receive civilian complaints in 1984, female officers and experienced officers were less likely than others to be the subject of complaints alleging abuse of force. Officer ethnicity was not related to the type of complaint filed. Analysis also showed that minority officers were more likely to receive complaints filed by minority complainants than were white officers.

In short, quantitative analyses of the characteristics of officers who were, and were not, the subject of civilian complaints in 1984 revealed no evidence of racism in the aggregate patterns of alleged misconduct. There was little difference among officers of different races in terms of the frequency and type of civilian complaints and complaints against white officers were not disproportionately filed by minority complainants.

2. Characteristics of Complaints Filed in 1984

Our review of the CCRB process points to a gap between the public's perception of the CCRB caseload, as a substantial volume of major complaints about very ugly and brutal police misconduct, and the fact that the vast bulk of that caseload consists of much more mundane complaints of minor force, abuse and discourtesy.

Although over half (54%) of the complaints filed with the CCRB in 1984 contained allegations of unnecessary force, a large proportion of these alleged relatively minor force (pushing, shoving or the like constituted 50% of the force allegations).

The majority of force allegations (68%) did not involve any injury to alleged victims. Relatively few of the alleged injuries (11%) required medical treatment. Nearly half of the CCRB complaints (46%) contained relatively minor allegations -- improper arrest threats, improperly issued summonses, discourtesy -- which did not involve police use of force at all. There were also few allegations of ethnic slurs, although a small group of comparatively serious complaints alleged racial hostility between officers and complainants, and these incidents did more closely correspond to the public image of CCRB complaints.

Although the data pointed to the gap between typical CCRB complaints and the ugly incidents featured in the media, it should be recognized that the kinds of incidents with which the CCRB routinely deals contain the central elements of the more serious forms of abusive police behavior -- an apparent insensitivity to civilian concerns, an "us-them" rejection of challenges to police authority, a failure to respond dispassionately to civilian provocation.

Curran suggests that such incidents may be as influential in shaping public perceptions as more serious forms of police abuse: "It is, of course, the low level physical abuse and verbal abuse, including epithets and discourtesies, from which perceptions of police derive..." (1987: Vol. I, 446). This recognition of the centrality of ethnic slurs and discourtesy is important not only because of the influence they have on public perceptions, but also because low-level abuse can lead to more serious abuse. In

the cases studied, discourtesy often appeared to be the "seed" which generated incidents involving alleged police misuse of force.

CCRB complaints also differed from the public image in terms of the types of situation from which they arose. Although a number of complaints were classified as arising from crime report situations, relatively few complaints involved alleged misconduct against persons arrested on criminal charges. Instead, a number of the complaints arising from crime reports concerned incidents in which police responded to a call about a crime-in-progress; the crime report influenced their response to a situation which differed significantly from what the dispatcher had described.

Complaints arising from traffic situations were, in fact, far more frequent than complaints arising from crime report situations. Such complaints were substantially less likely to involve allegations of unnecessary force than other complaints. Typically, complaints arising in traffic situations alleged discourtesy and/or traffic summonses which complainants believed should not have been issued.

Qualitative review of the content of CCRB complaints revealed distinct sub-groups of complaints within the CCRB caseload. One such group is the block of complaints arising from interpersonal confrontations between officers and civilians who came into contact in incidents outside the officer's performance of his duties (traffic accidents, interpersonal disputes). Another group of complaints consists of those filed by individuals who

appeared to be, or were identified by others as psychotic and possibly delusional. Complaints of this type differ distinctly from the public's image of the CCRB caseload.

Qualitative review also permitted the identification of certain interactional patterns which give rise to distinct groups of CCRB complaints -- harsh response to civilian provocation; discourtesy when issuing traffic summonses; officers responding inappropriately when intervening in a situation which they were mistakenly told involved a crime-in-progress. In several relatively serious complaints, situations escalated into force after bystanders attempted to offer explanatory information to police officers; in these incidents, officers, seeking to control the situation, reacted hostilely to citizens who appeared to be trying only to provide information about the incident at hand.

3. Recommendations About the CCRB Caseload

Analysis of the content of complaints filed with the CCRB can help identify patterns of interaction which give rise to civilian complaints against police officers. Periodic qualitative review of the nature of filed complaints, therefore, might be useful in the Department's efforts to develop and implement training programs aimed at reducing the incidence of police misconduct towards citizens. The Curran Commission's recommendation of training designed to simulate decision-making 'scenarios' in officer-citizen encounters involving the use of force envisions such an approach.

The discovery in the Vera research data of a block of complaints arising from what appear to be interpersonal conflicts outside of duty assignments, particularly off-duty encounters in which police officers were alleged to have wrongfully invoked police authority, lends support to another of the Curran Commission's recommendations. The Commission recommended that police departments in New York State adopt a policy prohibiting the use of police-officer status when off-duty "to resolve personal matters or for minor violations, the penalty being internal discipline" (Curran: Vol. I: 163.) Such a policy would reduce departmental liability by defining many off-duty incidents as beyond the "scope of employment". Our qualitative research suggests that it might also serve to reduce the number of complaints generated in off-duty interpersonal encounters.

The research data also suggest that the Department should continue to give serious attention to the relatively less serious complaints (ethnic slurs, discourtesy) because discourtesy appeared so often as the seed of more serious forms of misconduct and such behavior, in any event, has an adverse effect on public attitudes toward the police.

One step in that direction would be to keep less serious complaints within the CCRB's jurisdiction. The CCRB administrative staff currently exercise some discretion over the kinds of complaints included in the CCRB caseload. Over the past few years, relatively minor discourtesy complaints have been shifted from the jurisdiction of the Chief of the Department to that of

the CCRB and, in some cases, back to the jurisdiction of the Chief of the Department. There are no specific guidelines governing which of these cases appropriately belong in the CCRB and which do not. Although some CCRB staff argue that less serious complaints do not belong within their jurisdiction, and contend that they are excessively burdened by having to review such complaints, an affirmation that discourtesy and ethnic slur complaints will remain within the purview of the CCRB might prove to be a useful signal of the Department's determination to treat all allegations of police misbehavior seriously.

Another issue arises from the shifting of jurisdictions for the relatively minor cases; this has had an impact on the number of CCRB complaints reported annually in 1983, 1984 and 1985. Variations in the number of complaints filed annually, particularly those that result from shifting jurisdictions, ought not be used, though some have done so, as an indicator of increases or decreases in the volume of police misbehavior (see New York Times, 6/12/87: B3.) In addition, in recent years precinct commanders have been held accountable for increases in the number of complaints in their commands. Such accountability must be responsive to jurisdictional changes.

Given the uses to which statistics on the raw number of filed complaints are put, more definitive and more permanent guidelines concerning the types of complaints which belong in the jurisdiction of the CCRB would be appropriate. Furthermore, when jurisdictional changes are made, CCRB reports should note the

changes and indicate specifically how the statistical data should be handled in comparing data across years.

A final "caseload" recommendation concerns the way in which the CCRB reports data on dispositional outcomes. This review of the type of complaints filed and of the nature of the dispositional process indicates that many complaints do not contain the basic elements necessary for them to be fully investigated: an accessible and willing complainant, an identified police officer, and coherent allegations. Such cases simply cannot be investigated by the CCRB, whatever the desires of the complainant or the nature of the allegations. They can only "drop out" of the dispositional process, usually because the complainant cannot be found. It is appropriate for the CCRB to accept these complaints and attempt to reach a disposition. However, if the attempt fails for reasons such as these, it appears helpful for the case to be given some administrative closure to indicate the impossibility of achieving a substantive disposition. For reporting purposes, a general classification such as "no disposition possible" might be appropriate.

Furthermore, when the CCRB prepares its annual report, it should exclude these cases from the base used to compute the percentage distribution of cases by substantive disposition category (conciliated, substantiated, exonerated, etc.). Although this would increase the percentage of such dispositions, the approach seems appropriate, because the CCRB can do nothing with a com-

plaint that is lacking one or more of the basic elements of a complete complaint.

E. Conclusion

There is a widespread belief, particularly in New York City's minority communities, that police treat citizens too harshly and that the NYPD is insensitive to such behavior. This belief is deep-rooted and is not likely to be shaken by research data that reveal integrity, thoroughness and fairness in the civilian complaint review process.

Some critics appear to believe that substantial improvements in the structure and process of the CCRB can have dramatic effects on the way in which the police interact with citizens and on police-community relations. Our research leads us to suspect that such improvements can lead to only marginal gains in these areas. This is because the data revealed no major flaw in the investigative process of the CCRB, although it did point to inherent limitations on the agency's ability to control police misconduct or improve police-community relations.

Much of the function of the CCRB is symbolic. When first conceived, the agency was intended to represent the city's resolve to take allegations of police misconduct seriously. It was designed to be a message to both police officers and the community about the strength of that resolve. Yet, because of the ensuing controversy about the structure of the CCRB, the agency has limited credibility with complainants and citizen groups. At the same time, to rank-and-file officers, it appears to represent a

Departmental willingness to take a complainant's word over an officer's word. It has become the local embodiment of unresolved police-civilian conflict.

The data gathered for this study show that the current public image of the CCRB does not correspond to the reality -- both the caseload and the dispositional process of the CCRB differ substantially from the image presented by the agency's critics. In order for the agency to become a more meaningful symbol of the Department's stand against misconduct toward citizens, that image must be transformed.

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Appendices

Appendix A Variables Used in the Quantitative Analysis

Appendix B Selection of the Qualitative Sample

Appendix C Officer Assignments and Characteristics
Associated with Civilian Complaints

Appendix D Additional Complaint-Based Tables

Appendix E Allegation-Based Tables

Appendix A

Variables Used in the Quantitative Analysis

The 1984 CCRB data tape provided the basic information from which we constructed variables to be used in the quantitative analysis. We received this information about filed complaints from the CCRB management information system, which was not developed for purposes of research. Therefore, the data on that tape needed to be shaped to be used for analysis.

When CCRB staff entered data in 1984, there was no systematic "cleaning" of entered data. Thus, many variables included values that did not correspond to valid codes. For other variables, there was a great deal of unexplained missing data and no way to determine whether the information had not been collected or had not been entered. In some instances, information collected about a particular complaint was internally inconsistent with other information about that complaint. In order to use the 1984 CCRB data tape analytically we needed to exclude all invalid codes, accept the fact that there was often a large amount of missing information for individual variables, and exclude data that was internally inconsistent with other data about particular complaints.

The first issue concerned the amount of missing data. While several variables in the 1984 data set were descriptively useful,

for some variables, there was too much missing data for them to be useful descriptively. For descriptive purposes, the data set provided sufficient information on the victim's gender and ethnicity; the number of victims involved in the alleged incident; the number of prior CCRB complaints filed by the victim-complainant; the gender, ethnicity and years of service of the subject officer; the number of subject officers involved in the alleged incident; the type of situation in which complaints arose; the type of injury reported at intake, if any; and the type of arrest associated with the complaint, if any. There was too much missing information concerning the victim's age and the number of prior complaints against subject officers to permit reporting the distributions of these variables.

There was also too much missing information on the characteristics of complainants who were not themselves the victims of complaints to describe their characteristics. The data tape did not provide a separate variable designating whether complaints had been filed by victims or by someone else. If there had been a non-victim complainant, then information about that complainant was included on the data file. If no complainant information was included, the presumption was that the victim had personally filed the complaint. This presumption was not necessarily correct. Therefore, the 1984 system did not permit an accurate count of the number of complaints filed by victims and the number of complaints filed by others.

The distinction between victims and complainants becomes important when we consider factors that might influence dispositional outcomes at the CCRB. Our analysis of the dispositional process suggests that the complainant plays an active role in determining the outcome of his/her complaint. If the complainant can not be reached or will not cooperate, the complaint will be closed without an investigation. In complaints that are deemed appropriate for a conciliation offer, the complaint will be conciliated only if the complainant agrees to conciliation. Because of the importance of the complainant role in the early stages of the CCRB's dispositional process, the complainant's characteristics might be expected to be related to the dispositional stage reached.

Unfortunately, the data tape provided very little information on the characteristics of complainants who were not themselves the victims of the alleged incident. There was, however, enough data to determine that in the large majority of cases (84%) complaints were lodged by victims themselves.¹

Therefore, in our analysis of factors that influenced dispositional outcomes, we examined relationships between victim ethnicity and complaint disposition. We did not use complainant ethnicity as an analytic variable, because there were relatively

¹ Information on the ethnicity of non-victim complainants was missing in many cases in which there appears to have been a non-victim complainant.

few non-victim complainants, as well as too much missing information about the ethnicity of non-victim complainants to justify such an analysis.

Several variables that were central to the analysis (complaint type, complaint disposition) were not readily available in the 1984 data set. A number of variables needed to be shaped and combined to be useful analytically.

The 1984 CCRB data tape did not provide simple descriptions of the types of complaints filed (force, abuse, discourtesy, ethnic slur) or of the dispositions of individual complaints. The data system instead recorded information on allegations contained in a particular complaint.

Nor did the 1984 CCRB data tape separately specify precisely what types of allegations individual complaints contained. The data set, instead, provided two indicators of the kinds of allegations contained in a complaint. Variables on the type of allegation filed (i.e., type of force, type of abuse, etc.) and on the disposition of individual allegations provide the only indication within the data set of the allegations contained within the complaint. If the type of force, abuse or discourtesy alleged was coded, it could be assumed that there was, in fact, a force, abuse or discourtesy allegation. Similarly, if force, abuse, discourtesy or ethnic slur allegations were disposed, it could be assumed that an allegation of the kind disposed had been alleged.

Analysis showed that in some complaints there was an apparent discrepancy between the type of allegation classified and the type of allegation disposed. In some cases in which the type of force was coded, for example, there was a record that another type of allegation was disposed (abuse or discourtesy) but no classification of the type of abuse or discourtesy alleged. In such cases, there was no way to determine which type of allegation was actually contained within the complaint, without consulting the original files.

Because our analysis was primarily concerned with factors that influenced dispositional outcomes, we chose to use disposed allegations as an indicator of the kinds of allegations contained within a complaint, rather than the classified allegation type. Using this method, if a force allegation had been disposed, we determined that force had been alleged.

We also wanted to describe the type of force and abuse alleged in specific complaints and to analyze how allegations of different types (a "push" allegation, a gun allegation) were disposed. This variable was not readily available on the 1984 data tape. In that data set, there was one variable describing the most serious type of force, abuse or discourtesy alleged at intake and another variable reclassifying the most serious type of force, abuse or discourtesy, based on the investigator's review of the complaint. Although most allegations received an intake classification, many allegations were not specifically classified

by investigators. In some cases the intake classification matched the investigator's classification; in other cases, the investigator reclassified the intake allegation. Yet, together, these two variables could be combined to provide information on the type of FADE allegation contained within a complaint, by using the investigator's reclassification, if it were entered, and the intake classification, if there had been no investigatory reclassification.

For analytic purposes, we also needed to construct a variable that would categorize all complaints filed at the CCRB. In the early dispositional stages of the CCRB (i.e., if a complaint drops out or is conciliated) all allegations within the complaint share a common disposition. At this point, complaints are the subject of the dispositional process, rather than individual allegations. To analyze differences in the likelihood of being investigated or of being conciliated, we needed to use complaints as the unit of analysis, rather than the separate allegations within complaints.

One way of classifying complaints is according to the relative seriousness of the complaint. The dispositional process was described by CCRB staff as being responsive to the seriousness of complaints. Less serious complaints were generally deemed appropriate for conciliation and more serious complaints were generally deemed appropriate for investigation.

Therefore, to be able to reflect differences in the extent of conciliation and investigation for various types of com-

plaints, we classified complaints according to the most serious allegation within the complaint, based on FADE categories. If there was a disposed force allegation within the complaint, the complaint was defined as a force complaint, no matter what other types of allegation were contained therein. If there was no disposed force allegation, but there was a disposed abuse allegation, the complaint was defined as an abuse complaint. If there was neither a disposed force nor a disposed abuse allegation within the complaint, but either a discourtesy or an ethnic slur allegation (or both) had been disposed, the complaint was defined as a discourtesy-ethnic slur complaint. (These last two categories were collapsed because there were so few ethnic slur allegations in the 1984 data set.)

For purposes of analysis, we also needed to create a dispositional variable that would characterize the disposition of the complaint as a whole, rather than the disposition of individual allegations within a complaint. To do this, we defined the disposition of the complaint in terms of the disposition of the most serious allegation within the complaint. Therefore, when there was a force disposition, this became the overall complaint disposition; the same logic held for abuse dispositions, with no associated force, and for discourtesy only.

We also created a variable which defined the disposition of a complaint in terms of the most definitive disposition of any allegation within the complaint. Using this method, if any al-

legation within a complaint were substantiated, the disposition of the complaint as a whole was defined as substantiated; if no allegation had been substantiated, but an allegation had been disposed as unfounded, the disposition of the complaint as a whole was defined as unfounded. This variable continued to define the disposition of complaints in this manner based on the following order of relative "definitiveness": substantiated, unfounded, exonerated, unsubstantiated, conciliated, and "dropped out".

As discussed in Chapter IV, we compared the two methods of defining the disposition of complaints reviewed above. Overall, there was relatively little difference between the two in the distribution of complaint-based dispositional outcomes. Because, there was little difference between the two variables, we defined complaint disposition in terms of the disposition of the most serious allegation within the complaint, in keeping with the definition of complaints in terms of the most serious allegation within the complaint. Therefore, if a force complaint is said to have been substantiated, it means that the force allegation was substantiated, although other allegations within the complaint may have been otherwise disposed.

Although the definition of complaint disposition in terms of the disposition of the most serious allegation within a complaint was the central dispositional variable used in analysis, we also conducted analyses using the alternative definition of complaint

disposition (the most definitive disposition of any allegation), as well as analyses based on the dispositions of all separate allegations. Where relevant, these alternative analyses are discussed in text or reported in appendices. Generally, the various forms of defining dispositional outcomes discussed above made little difference in the findings of analyses of the factors that influenced dispositional outcomes.

Appendix B
Selection of the Qualitative Sample

Selecting a sample of CCRB cases for qualitative review was complicated by our developing interest in the types of situations and police-citizen encounters that led to complaints, as well as the various complaint categories (FADE) and the different stages of the dispositional process that complaints can reach. Our quantitative review indicated that nearly 75 percent of all cases began in traffic, crime report, dispute or patrol situations, with traffic cases constituting the single largest situational category. In another 11 percent of CCRB complaints, there was no information of the type of encounter and in most cases little information coded about the type of complaint. No other single type of police-citizen encounter generated more than four percent of CCRB complaints.

The quantitative review made us particularly interested in understanding the nature of complaints developing in traffic situations. Were many of these cases the result of citizens disputing traffic summonses they felt should not have been issued? Was officer discourtesy a major factor in the generation of traffic complaints or was the response to irate, argumentative citizens a more important factor? Did officers assigned to traffic enforcement frequently have repeat complaints within short periods of time? Our qualitative sampling strategy needed to include enough traffic complaints to permit description of the underlying incidents in traffic complaint situations.

We decided that we could ensure having enough traffic cases to permit such description by limiting our sampling base to the four predominant types of complaint situation (traffic, crime report, dispute and patrol). We could then construct a qualitative sample from this base by sampling dispositional categories strategically by type of complaint (FADE). Generally, our strategy entailed a more intensive focus on serious cases (force) that were fully investigated. We chose to oversample fully investigated cases and, within that category, focus particularly on allegations of force. Conciliation cases and cases that "dropped out" of the CCRB for various reasons were undersampled -- in part, because so many complaints were so disposed and, in part, because complaints that were so disposed were expected to be less serious than complaints that were investigated fully.

Our proposed sampling strategy for the qualitative sample is outlined below:

Cases Not Investigated

Complaints that "drop out": Many CCRB cases are neither investigated nor conciliated because complainants (both victims and witnesses) withdraw their complaints officially; are unavailable (have supplied inaccurate contact information or cannot be reached); or become uncooperative. Other cases do not proceed further because the subject officer or officers cannot be identified. Qualitative review of complaints that disappeared or dropped out can tell us about the substance of such cases and

about the extent of efforts to contact and/or identify parties necessary to carry the case further. Because these files are relatively small, it was possible to explore a substantial number of such cases rapidly. Qualitative review of such cases could depict the various ways in which cases drop out or disappear during the CCRB process. Therefore, we decided to sample 40 complaints that dropped out: 10 withdrawn, 10 unavailable, 10 uncooperative and 10 with unidentified officers. These cases were to be drawn equally from the force, abuse and discourtesy/ethnic slur categories.¹

Conciliated Complaints: The CCRB's Conciliation Unit targets cases for conciliation when they believe that a case will end up unsubstantiated if investigated and that the complaint is relatively minor. Although that unit was not in operation during the sample period (1984), the same considerations appear to have determined which complaints were conciliated at that time. Conciliated cases presented a good opportunity to explore discourtesy complaints. These cases were of particular interest because several CCRB staff members expressed the opinion that they did not belong in the CCRB caseload; they argued that these cases were relatively trivial and diverted attention and resources from more serious cases, that they saw as the proper focus of the agency. It was proposed that the qualitative sample would in-

¹Because there were so few complaints of ethnic slur, for sampling purposes we combined discourtesy and ethnic slur complaints.

clude 20 conciliated cases: 10 discourtesy complaints, 5 force complaints, and 5 abuse complaints.

INVESTIGATED CASES: Complaints that are fully investigated offer a good opportunity to explore how relatively serious cases (force) are handled in the investigative process. This is equally true whether complaints are unsubstantiated, unfounded, exonerated or substantiated. For each of these dispositions, it was proposed that force complaints would constitute half of the sample cases (the proportion of abuse complaints and discourtesy/ethnic slur complaints would vary somewhat by disposition).

Unsubstantiated Complaints: There was particular interest in exploring the unsubstantiated category to determine whether procedural changes might result in a higher proportion of such cases reaching a more definitive disposition. Therefore, we proposed including a relatively large number of unsubstantiated cases. The sample included 30 unsubstantiated cases -- 15 force, 8 abuse and 7 discourtesy/ethnic slur.

Unfounded and Exonerated Complaints: Complaints that are decided in favor of the subject officer are of two types -- those in which the event is found not to have happened and those in which it is agreed that the event happened, but found that the officer's behavior was justified and proper. We proposed including 10 unfounded complaints and ten exonerated complaints, for a total of 20 cases decided in the officer's favor. Half were to

be force complaints, a quarter abuse and a quarter discourtesy/ethnic slur. We discovered however, that there were in fact no exonerated discourtesy complaints among the group of cases to be sampled. Therefore, we increased the number of exonerated abuse complaints reviewed to compensate for the lack of exonerated discourtesy complaints.

Substantiated Complaints: Although substantiated complaints represent a small proportion of CCRB cases, these cases alone demonstrate the board's ability to sanction subject officers. We proposed sampling 30 substantiated cases -- 15 force, 10 abuse and 5 discourtesy/ethnic slur. In fact, there were only 9 substantiated abuse complaints and only 5 substantiated discourtesy complaints identified in the pool of cases from which our sample was drawn. We reviewed all of them.

In all, we reviewed over 150 cases -- somewhat more than we had originally envisioned. We used a computer-generated list to pull a group of cases that was approximately twice the size of our expected sample. This was to permit us to use substitute cases if any individual case had been incorrectly classified or proved to be inaccessible. In some categories (unfounded, no police officer identified) we reviewed one or two additional cases in which complaints on our lists had been found and pulled.

The distribution of cases in the qualitative sample was not designed to match the distribution of cases that enter NWP. In

all, we examined 62 force complaints, 55 abuse complaints and 39 discourtesy/ethnic slur complaints. This provided a sufficient number of cases in each group to permit description of the nature of complaints entering CCRB.

Appendix C

OFFICER ASSIGNMENTS AND CHARACTERISTICS ASSOCIATED WITH CIVILIAN COMPLAINTS

Civilian complaints are generated in part by the kind of activity that an officer is engaged in -- whether he or she is working out of a Precinct, a Task Force, a Detective area, a Neighborhood Stabilization Unit or in the Traffic and Highway Division.

Civilian complaints also depend on certain characteristics of the officer, such as experience and gender. This section presents the results of examining these relationships -- between civilian complaints and the officers work assignment, length of time on the job, and gender.

First, the results on assignment: Officers working in the Traffic and Highway Division have the highest rate of receiving complaints. The next highest rate is found among officers working out of Precincts. Detectives and police officers working in Detective Areas have the lowest rate of all that we examined. Officers working in Neighborhood Stabilization Units or in Task Forces fall in between.

Within these different assignments, experience plays a part. The longer an officer has been on the job, the less likely it is he or she will receive a complaint. But the relationship does not hold equally depending on assignment and is not evident during the first five years on the job.

Finally gender makes a sizeable difference. Working in the same assignments, and with the same experience, female officers are less likely to receive complaints than male officers. This finding is consistent, but applies only to a few assignments where valid comparisons can be made; that is, where there is a sufficient number of women with the same experience as men, working in the same assignment.

ASSIGNMENTS

To begin, we present the complaint rates for officers in five different assignments: Precincts, Detective Areas, Neighborhood Stabilization Units, Task Forces, and the Traffic or Highway Division. Where applicable, we show the rates for police officers and detectives separately. Figure III-1 shows the rate of complaints per hundred officers in each of these assignments for the year 1984. (The rate is based on the number of complaint incidents-- not specific allegations.)

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Figure III-1

Civilian Complaint Rate Per Year
for Police Officers and Detectives
According to Assignment 1984 *

ASSIGNMENT	Complaint Rate Per Hundred Officers
TRAFFIC & HIGHWAY UNITS	
Police Officers *****	63.1 (438)**
PRECINCTS	
Police Officers *****	41.7 (10074)
TASK FORCES	
Police Officers *****	22.1 (327)
NEIGHBORHOOD STABILIZATION UNITS	
Detectives *****	22.8 (173)
Police Officers *****	13.8 (1504)
DETECTIVE AREAS	
Detectives ***	4.9 (1025)
Police Officers ***	5.1 (228)

* This and subsequent tables include only persons with the rank of police officer or detective. Sergeants and higher ranks, who have very few complaints, are not counted.

** In this and subsequent tables, the figures in parentheses refer to the number of officers working in the specific assignment in November 1984.

Officers working in the Traffic and Highway Division are the most likely of all officers to receive complaints -- with a rate of 63 complaints per hundred officers. This high rate supports the findings in Section 1 where traffic stops emerged as the single category of origins with the most

complaints -- almost 30%. The public simply does not like to receive traffic summons, and under certain conditions, with certain officers and members of the public, civilian complaints are generated.

Although almost 30% of all complaints originate with a traffic encounter, it would be a mistake to conclude that the Traffic and Highway Division are responsible for most of them. Officers working in Precincts generate more complaints arising from traffic encounters because there are more officers working out of Precincts than in the Traffic or the Highway Division. (In 1984 there were over 10,000 officers in Precincts, whereas there were only 500 officers working in the Traffic and Highway Division.)

Officers working out of Precincts have the second highest rate, which reflects the fact that they have the most contact with the public. In contrast, police officers working on Task Forces and detectives working in Neighborhood Stabilization Units have half the rate of police officers working in Precincts. Once again these differences follow from the amount of contact with the public that these different assignments require.

Detectives and police officers working in Detective Units have the lowest rates. Their contact with the public is very selective compared to officers on other assignments. Unless a detective is apprehending a suspect, he is usually trying to obtain information which requires the cooperation and good will of the public. The detective's manner cannot be aggressive or authoritarian, if he is to receive cooperation. Rather, he is apt to be friendly and solicitous and thereby reduces the probability of complaints.

These complaint rates for different assignments might be used by commanders as a rule of thumb for judging whether an officer is above or below average in generating complaints. The rates in Figure III-1 are "per hundred officers." To get the average for one officer, simply move the decimal two points to the left. Thus, on the average, an officer working in the Traffic or Highway Division would receive .3 of a complaint per year, or in five years would average three complaints. An officer working in a Precinct would average two complaints in five years, but this would depend on how active a precinct the officer is assigned to. The average number of complaints over a five year period for each of the assignments is as

follows:

	Average Number of Complaints In FIVE Years
Traffic & Highway Division	3
Preincts	2
Task Force	1
N.S.U. (Detectives only)	1
Detective Units	6.25

A special note should be made of complaints in the Neighborhood Stabilization Units. In this assignment new officers receive their first actual contact with the public while under the supervision of detectives who have considerable experience on the job. It is from these detectives that new officers first learn how to deal with the public. It is important therefore that their role models are. Given these average rates for the N.S.U.'s, it would not be difficult for the superior officers to spot detectives who exceed these averages. Such officers apparently are not able to contain situations but let them get out of control thereby generating complaints. There are always extenuating circumstances in every complaint, but if a detective assigned to an NSU is receiving two or three complaints a year, even if the complaint is not substantiated, he may not be setting a good example for the new officers.

EXPERIENCE

Since assignments generate sizeable differences in complaint rates, the different assignments must be considered when looking at the relationship between experience and complaints. The first place where we examine experience is among officers working in precincts. Figure III-2 shows the rate of complaints for police officers working in precincts according to the number of years on the job.

.....
 Figure III-2

Complaint Rate for Police Officers
 Working in Precincts in 1984 According
 to Length of Time on The Job.

EXPERIENCE	Complaint Rate per Involved Officers
1 - 5 Years *****	43.0 (5273)
6 - 10 *****	37.4 (4288)
11 - 15 *****	30.5 (1843)
16 - 20 *****	17.0 (1591)
21 years or more *****	12.2 (542)

.....

Within precincts, the length of time on the job is related to civilian complaints: the less experience, the higher the rate of civilian complaints. On the average over the twenty year span, the complaint rate goes down 1.5 per hundred officers for each year of experience. One word of caution on this relationship: complaint rates vary considerably depending on how much activity occurs in the precinct. The most active precincts will have more complaints. Officers with more experience over the years may transfer to less active precincts, and new officers may be assigned to where they are needed

most, which is in the most active precincts. Without considering how active the precinct is, the relationship between experience and the complaint rate may be exaggerated due to selective transfers and assignment policies.

The figures in parantheses in Figure III-3 show the number of officers at each level of experience. There were relatively few with six to ten years of experience in 1984 due to hiring freeze from 1978 to 1979. It will also be noted that the largest number of officers -- over 5000 -- have one to five years experience.

Figure III-3 shows the complaint rates for these 5000 officers for each year of experience. Each year shows a small decrease in the complaint rate, with the exception of those with only one year of experience. They have a lower rate than officers with more experience. It may, however, be due to the fact that these officers have not spent a full year in the precinct.

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Figure III-3

Complaint Rate for Officers
in Precincts According to Experience*
(Among Officers with one to five
Years Experience.) 1984
.....

Experience	Complaint Rate per Hundred Officers
One Year *****	25.7 (2150)
Two *****	52.5 (2011)
Three *****	51.8 (1831)
Four & Five *****	46.3 (488)

.....

* Officers with 4 and 5 years experience have been grouped into one category due to rounding errors in the original data on years of experience.

Although the complaint rate does decrease between two and three years of experience, the difference of only .7 per hundred officers may be due to chance. The difference in the rate of 3.3 between officers with three years experience and those with four or five years is sizeable and not likely to be due to chance, which supports the hypothesis that with experience the complaint rate goes down.

The next assignment in which we examine the effect of experience is the Neighborhood Stabilization Units. It is not possible, however, to examine the effect of experience among the police officers since they are all new officers with less than one year experience. Their rate of 13.1 is considerably lower than officers with one year experience working in precincts, which had almost twice that figure with 25.7.

The new officers in the Neighborhood Stabilization Units are supervised by detectives with ten or more years experience. The complaint rate for these detectives according to experience is shown in Figure 111-4.

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Figure 111-4

Complaint Rates According to
Experience Among Detectives Assigned to
Neighborhood Stabilization Units 1984
(DETECTIVES ONLY)

.....

EXPERIENCE	Complaint Rate per Hundred Detectives
10 - 15 Years *****	35.7 (25)
15 - 20 *****	9.4 (106)
21 Years or more *****	18.0 (38)

.....

Detectives with the least experience (10-15 years) have the highest rate, but after that the relationship is not consistent. Officers with more

than 20 years experience have a higher rate than those with 16 to 20 years experience. These figures, however, may be due to chance factors since the number of detectives in each experience category is relatively small.

Our next examination of experience is within the Task Forces. Their rates according to experience is shown in Figure III-5.

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 Figure III-5

Complaint Rate for Police
 Officers in Task Forces
 According to Experience 1984

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Experience	Complaint Rate per hundred Officers
Five years or less *****	21.2 (353)
6 - 10 *****	7.4 (27)
11 - 15 *****	9.4 (65)
16 - 20 *****	6.7 (105)
21 Years or more ***	2.2 (31)

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In general, officers assigned to Task Forces show that with experience the complaint rate goes down. There is one small exception to the relationship -- among officers with 6-10 years experience -- but this rate is based on relatively few officers -- only 27.

We can look further at the effect of experience among officers with five or less years experience, which is shown in Figure III-6.

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 Figure III-6

Complaint Rate in Task Forces
 (Among officers with 1-5 years
 Experience) according to Experience

EXPERIENCE	Complaint Rate per Hundred Officers
1 year *****	18.8 (117)
2 years *****	24.7 (113)
3 *****	18.8 (90)
4-5 years *****	25.2 (33)

.....

There is no evidence in Figure III-6 that the complaint rate goes down with experience -- at least for officers with five years or less experience who are assigned to Task Forces.

Our next examination of experience is about police officers and detectives assigned to detective areas. Their complaint rates according to experience is shown in Figure III-7.

Figure III-7

Complaint Rate among Detectives and Police Officers (separately) Working in Detective Areas According To Experience 1984.

DETECTIVES		Complaint Rate per Hundred Officers
Experience		
5 years or less	*****	10.0 (10)
6-10	*****	7.7 (26)
11-15	****	4.2 (262)
16-20	****	4.0 (452)
21 years or more	**	2.2 (275)

POLICE OFFICERS		Complaint Rate per Hundred Officers
Experience		
5 years or less	*****	12.3 (24)
6-10	*****	7.4 (27)
11-15	*	1.1 (33)
16-20	***	2.6 (76)
21 years or more	--	-.6 (15)

The effect of experience among officers working in detective areas is consistent: the more experience the lower the rate of complaints. Some of the categories, however, have relatively few officers which makes the category sensitive to chance fluctuations. If we combine both police officers and detectives into one group and examine only three categories of experience, the relationship is quite

(All Officers working in Detective Areas)

EXPERIENCE		Complaint Rate per Hundred Officers
Ten years or Less	*****	3.2 (87)
11-20	***	3.6 (884)
21 years or More	**	2.1 (233)

Finally we examine the effect of experience among officers working in the Traffic and Highway Units. These data are shown in Figure III-8.

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Figure III-8

Complaint Rate Among Police Officers
Assigned to Traffic & Highway Units
According to Experience 1967

EXPERIENCE		Complaint Rate per Hundred Officers
Five Years or Less	*****	76.6 (222)
6-10	*****	21.1 (19)
11-15	*****	36.1 (138)
16-20	*****	21.7 (92)
21 Years or More	****	10.5 (37)

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Among officers working in Traffic and Highway units, the complaint rate decreases with experience. There is one aberration -- among officers with 6-10 years experience -- but this rate is based on only 19 officers and subject to chance.

To sum up our findings on experience, we present the combined data for both detectives and police officers for all five assignments in Figure III-9

Figure III-9

Complaint Rate for Police Officers and Detectives in Five Assignments* According to Experience.

EXPERIENCE	Complaint Rate per Hundred Officers
0 - 5 Years *****	37.4 (7992)
6 - 10 *****	35.9 (527)
11 - 15 *****	25.9 (2242)
16 - 20 *****	13.5 (2422)
21 Years or more ****	6.5 (632)

Figure III-9 shows a reduction in the complaint rate as officers have more experience on the job. On the average, over the twenty year period, there is a 1.4 reduction in complaints per hundred officers for each year of experience on the job. This figure is an average, however, and does not apply to officers during their first five years. Figure III-10 shows the complaint rate for officers in all five assignments with five years of experience or less.

Figure III-10

Complaint Rate for Police Officers and
 Detectives in Five Assignments According
 to Experience. (Only officers with 5 years
 or less experience.)

Experience	Complaint Rate per Hundred Officers
One Year or Less *****	22.7 (3638)
Two *****	33.1 (2225)
Three *****	51.3 (1278)
4-5 years *****	59.5 (521)

Of the officers with five years experience or less, there is no reduction in the complaint rate with experience. First of all, officers with one year or less experience have the lowest rate. But this might be due to the fact that one of these officers are assigned to Neighborhood Stabilization Units where their contact with the public is mediated by other employees. Many of these officers also have not yet a full year on the job which would undoubtedly keep their rate lower.

Further support for the data occurs among officers with four or five years experience; they have a higher rate than officers with less experience.

REGRESSIONS ABOUT THE FUTURE

The Police Department is a loaded organization in terms of experience. In 1984, 56% of the officers in three five assignments had five years or less experience. This overloading of less experienced officers is due in good part to the hiring freeze from 1978 to 1979. In time as these relatively new officers gain more experience, civilian complaints should go down, assuming all other influences on complaints remain the same.

As would, however, were one object to this
 in a relatively in a relatively earlier part of what we see

as the effect of experience may be due to police officers making selective transfers to assignments in which they are less vulnerable to civilian complaints. At the same time, new officers may be assigned to precincts that are very active and make them more vulnerable to complaints. Thus, what we see as the effect of experience may be due in part to selective transfers and policy decisions on assigning new officers. However, since the effect of experience shows up in the various assignments, no doubt it plays a part in reducing complaints. But the effect may be exaggerated.

Male and Female Officers

This section presents the differences in the complaint rate between male and female officers. Since complaint rates are related to both assignment and experience, these two factors will be considered at the same time. However, we can make comparisons between men and women only in Precincts and Community Stabilization Units; in the other assignments, there are too few or no women working.

Furthermore, the highest category of experience we are able to examine is "six years or more." There are too few women at higher levels of experience to have any finer distinctions and still have meaningful comparisons.

The first assignment we consider is Precincts. Table Figure 11-11 shows the complaint rate for men and women police officers according to experience. At all levels of experience, women have a lower rate of complaints than men, and the difference is most pronounced among officers with less than six years experience. In fact, men have more than two and half times as many complaints as women do. Among officers with more than five years experience, the difference is not as great, but women still have a considerably lower.

Figure III-11

Complaint rates for Male and Female
Police Officers Assigned to Precincts
According to Experience

Experience & Gender	Complaint Rate per Hundred Officers
ONE YEAR OR LESS	
Males *****	27.5 (1881)
Females *****	11.7 (299)
TWO YEARS	
Males *****	37.8 (1895)
Females *****	19.3 (318)
THREE YEARS	
Males *****	37.7 (1903)
Females *****	23.2 (352)
FOUR - FIVE YEARS	
Males *****	35.9 (385)
Females *****	21.7 (63)
SIX YEARS OR MORE	
Males *****	23.7 (413)
Females *****	15.1 (77)

Table III-11 also shows that during the first five years, there is no effect of experience; in fact the rate for males goes up. Only after six years does the rate go down.

We have also examined the difference between men and women in Neighborhood Stabilization Units. In these assignments all the police officers (the table excludes detectives) have less than a year experience. Figure III-12 shows the two rates: men have more than three times the rate of women.

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Figure III-12

Complaint Rates for Male and Female Police Officers in Neighborhood Stabilization Units	
.....	
Complaint Rate per Hundred Officers	
Males	*****+*****+ 13.6 (1320)
Females	**** 3.8 (82)

.....

Appendix D

Additional Complaint-Based Tables

TABLE D1

The Disposition of the Most Serious Allegation by the
Most Serious Disposition of All Allegations
(Investigated Complaints Only)

Disposition of Most Serious Allegation in Complaint	Most Serious Disposition of Any Complaint Allegation			
	Substantiated	Unsubstantiated	Unfounded/Exonerated	All Complaints
Substantiated	84% (150)	-- (0)	-- (0)	14% (150)
Unsubstantiated	14 (24)	100% (574)	17% (53)	62 (651)
Unfounded/Exonerated	3 (5)	-- (0)	83 (250)	24 (255)
Total	101% (179)	100% (574)	100% (303)	100% (1056)

TABLE D2

Dispositional Stage by Injury
(Force Complaints Only)

Dispositional Stage	Injury						
	No Claimed Injury	Unspecified	"Other"	Bruise	Minor Laceration	Serious Injury	All Force
Drop Out	49% (801)	55% (145)	53% (103)	41% (129)	49% (40)	44% (32)	49% (1275)
Conciliated	34 (561)	19 (51)	18 (35)	22 (68)	14 (14)	2 (2)	28 (731)
Investigated	17 (287)	26 (68)	29 (56)	37 (114)	37 (36)	54 (60)	24 (627)
Total	100% (1649)	100% (264)	100% (194)	100% (311)	100% (98)	100% (111)	101% (2627)
						Missing: Total:	417 3044

$\chi^2=182.17$, $DF=10$, $p<.001$

TABLE D3

Injury by Percent of Remaining Complaints
Conciliated, Net of Dropout
(Force Only)

	Percent Conciliated	N Conciliated/ N Remaining after Dropout
Not Claimed	66%	(561/848)
Unspecified	43%	(51/119)
"Other"	38%	(35/91)
Bruise	37%	(68/182)
Minor laceration	28%	(14/50)
Serious injury	3%	(2/62)

TABLE D4.1

Most Serious Investigative Disposition* by Complaint Type
(Investigated Complaints Only)

Investigative Outcome	Complaint Type			All Complaints
	Force	Abuse	Discourtesy	
Substantiated	18% (129)	14% (35)	20% (17)	17% (181)
Unsubstantiated	55 (393)	53 (138)	53 (46)	54 (577)
Unfounded	8 (59)	8 (21)	21 (18)	9 (98)
Exonerated	19 (137)	25 (65)	6 (5)	19 (207)
	27%	33%	27%	26%
Total	67% (710)	24% (259)	9% (93)	100% (1062)

$\chi^2=26.63$, $DF=6$, $p<.01$

* The disposition of a complaint is here defined in terms of the most serious investigative outcome of any allegation. "Seriousness" was defined in terms of how definitively allegations were disposed, as well as how serious the disposition was. Therefore, if any allegation was substantiated, the entire complaint was substantiated. (The order of seriousness was: substantiated, unfounded, exonerated, unsubstantiated.)

Defining the disposition of complaints according to the most serious (or most definitive) investigative outcome yields a somewhat different distribution of outcomes than defining dispositions in terms of the disposition of the most serious allegation (force/abuse/discourtesy-ethnic slur). The proportion of unsubstantiated force complaints is here reduced (from 65% to 55%). This points to the fact that some force complaints, in which the force allegation is disposed as unsubstantiated, are accompanied by lesser allegations, that are more definitively disposed.

TABLE D4.2
The Investigative Outcomes of All Allegations
by Allegation Type*

Investigative Outcome	Allegation Type			
	Force	Abuse	Discourtesy/ Ethnic Slur	All Allegations
Substantiated	14% (101)	13% (84)	13% (75)	13% (260)
Unsubstantiated	65 (464)	59 (381)	78 (441)	67 (1286)
Unfounded	7 (48)	6 (39)	6 (33)	6 (120)
Exonerated	14 (98) — 21%	23 (146) — 29%	4 (20) — 10%	14 (264) — 20%
Total	100% (711)	101% (650)	101% (567)	100% (1930)

$\chi^2=97.54$, $DF=6$, $p<.001$

* The distribution of the outcome of investigated allegations by allegation type differs from the distribution of the outcomes of investigated complaints because this form of analysis includes all allegations. Many less serious allegations (abuse, discourtesy) are investigated only because they accompany more serious allegations. Investigated allegations that are not accompanied by more serious allegations, therefore, are far more frequently disposed as unsubstantiated (83%; 395/474) than discourtesy allegations that are the most serious allegations in an investigated complaint (53%; 46/93). The difference stems from the greater extent of pre-investigative screening to which discourtesy complaints are subjected.

Analysis of the dispositional outcomes of investigated allegations confirms the interpretation of why discourtesy only complaints are more frequently disposed as "substantiated" or "unfounded" than other complaint types. This appears to happen primarily because of greater pre-investigation screening. Unlike discourtesy complaints, discourtesy allegations do not differ from other allegation types in the extent of substantiated or unfounded dispositions.

Yet strong differences remain in the extent of exoneration for various allegation types, paralleling differences in exoneration among investigated complaints. These differences appear to be intrinsically related to the nature of alleged behavior and the extent to which that behavior can be seen as justified and proper.

TABLE D5

The Proportion of Remaining Complaints Conciliated:
 Situation By Complaint Type

Situation	Complaint Type		
	Force	Abuse	Discourtesy
Crime Report	45% (172/385)	58% (79/136)	86% (69/80)
Patrol	65% (144/222)	73% (87/119)	96% (55/57)
Traffic	59% (236/403)	80% (363/455)	88% (286/326)
Dispute	58% (182/315)	73% (104/142)	95% (114/120)
Other	54% (127/234)	67% (71/106)	80% (91/114)

Appendix E

Allegation-Based Tables

This appendix presents selected tables that parallel tables presented in Chapter IV. The tables shown here are allegation-based, rather than complaint-based. In most cases, the findings of the allegation-based analyses mirror the findings of the complaint analyses.

These tables show significant differences in allegation type and in the dispositional outcomes of investigated allegations according to situation, victim ethnicity and officer characteristics. The relationship between allegation type and investigative outcome is discussed in Appendix Table D4.

Allegation-based differences in the dispositional stage reached at the CCRB (drop-out, conciliation, investigation) are not shown, because the extent of "penetration" into the CCRB dispositional process is largely determined by complaint characteristics, rather than the characteristics of specific allegations.

TABLE E1
 Allegation Type by Situation

Allegation Type	Situation						All Situations
	Traffic	Crime Report	Dispute	Patrol	Other		
Force	23% (578)	41% (727)	39% (618)	39% (558)	37% (517)		34% (3000)
Abuse	36 (914)	32 (567)	29 (459)	33 (479)	30 (423)		32 (2842)
Discourtesy	39 (990)	24 (415)	31 (492)	27 (390)	31 (430)		31 (2717)
Ethnic Slur	2 (61)	3 (47)	2 (24)	2 (31)	2 (35)		2 (198)
Total	100% (2543)	100% (1756)	101% (1593)	100% (1458)	100% (1407)		99% (8757)
						Missing: Total Allegations:	156 8913

X²=259.53, DF=12, p<.001

TABLE E2
Investigative Outcome of Allegations by Situation

Investigative Outcome	Situation							All Situations
	Traffic	Crime Report	Dispute	Patrol	Other			
Substantiated (Favors the Complainant)	15% (85)	12% (60)	13% (41)	17% (37)	12% (31)			13% (254)
Unsubstantiated (Neutral)	69 (393)	66 (340)	67 (220)	63 (134)	64 (170)			67 (1257)
Unfounded	3 (19)	6 (29)	7 (23)	7 (14)	12 (31)	6 (116)	20%	
Exonerated (Favors the Subject Officer)	12 (71)	17 (85)	13 (43)	14 (29)	12 (33)	14 (261)	20%	
Total	99% (560)	101% (514)	100% (327)	101% (214)	100% (265)			100% (1888)
	Missing:							142
	Total Investigated Allegations:							1930

X²=31.86, DF=12, p<.001

TABLE E3
 Allegation Type by Victim Ethnicity

Allegation Type	Victim Ethnicity			
	White	Black	Hispanic	All Victims
Force	30% (816)	36% (1072)	41% (611)	35% (2499)
Abuse	32 (872)	32 (947)	32 (478)	32 (2297)
Discourtesy	37 (1000)	28 (825)	25 (372)	31 (2197)
Ethnic Slur	1 (28)	4 (127)	2 (28)	3 (183)
Total	100% (2716)	100% (2971)	100% (1489)	101% (7176)
Missing: Total Allegations:				1736 8913

$\chi^2=154.97$, $DF=6$, $p<.001$

TABLE E4

The Investigative Outcome of Allegations by Victim Ethnicity
(Investigated Allegations Only)

Investigative Outcome	Victim Ethnicity			
	White	Black	Hispanic	All Victims
Substantiated (Favors the Complainant)	14% (88)	13% (105)	13% (46)	13% (239)
Unsubstantiated (Neutral)	64 (410)	68 (547)	71 (254)	67 (1211)
Unfounded	6 (40) 21%	6 (49) 18%	2 (8) 16%	5 (97) 19%
Exonerated (Favors the Subject Officer)	15 (101)	12 (100)	14 (52)	14 (253)
Total	99% (639)	99% (801)	100% (360)	99% (1800)
Missing: Total Investigated Allegations:				130 1930

$\chi^2=13.04$, $DF=6$, $p<.05^*$

* In contrast to the complaint-based analysis, the allegation-based analysis of victim ethnicity and investigative outcome is significant at the .05 level. The difference between victim ethnic groups in investigative outcome appears to rest largely in the smaller likelihood of "unfounded" dispositions for allegations involving Hispanic victims (2%, compared to 6% for others). If we collapse the unfounded and exonerated categories, the relationship is no longer significant.

TABLE E5

Allegation Type by Officer Gender

Allegation Type	Officer Gender		
	Male	Female	All Officers
Force	34% (2780)	26% (94)	34% (2874)
Abuse	32 (2622)	36 (130)	33 (2752)
Discourtesy	31 (2515)	37 (132)	31 (2647)
Ethnic Slur	2 (183)	1 (5)	2 (188)
Total	99% (8100)	100% (361)	100% (8461)
Missing: Total Allegations:			452 8913

 $\chi^2=12.94, DF=3, p<.01$

TABLE E6
 Allegation Type by Officer Years of Service

Allegation Type	Years of Service						All Officers
	1	2	3	4-10	11-15	16+	
Force	34% (437)	35% (669)	35% (419)	34% (300)	32% (382)	28% (288)	33% (2495)
Abuse	33 (427)	32 (622)	34 (410)	33 (290)	33 (394)	32 (329)	33 (2472)
Discourtesy	31 (393)	30 (584)	29 (353)	31 (280)	33 (394)	38 (329)	32 (2399)
Ethnic Slur	1 (19)	3 (53)	2 (30)	2 (20)	2 (24)	3 (27)	2 (173)
Total	99% (1276)	100% (1928)	100% (1212)	100% (890)	100% (1199)	101% (1034)	100% (7539)
	Missing: Total Allegations:						1374 8913

$\chi^2=36.26$, $DF=15$, $p<.01$

TABLE E7

Investigative Outcomes of Allegations by Officer Years of Service
(Investigated Allegations Only)

Allegation Type	Years of Service						ALL Officers
	1	2	3	4-10	11-15	16+	
Substantiated (Favors the Com- plainant)	13% (37)	12% (52)	22% (64)	16% (35)	9% (24)	8% (20)	13% (232)
Unsubstantiated (Neutral)	72 (204)	72 (319)	62 (183)	66 (153)	71 (186)	64 (156)	60 (1206)
Unfounded	4 (12)	3 (12)	3 (8)	6 (14)	6 (15)	7 (16)	4 (77)
Exonerated (Favors the Sub- ject Officer)	11 (31)	14 (60)	14 (41)	13 (30)	14 (36)	21 (51)	14 (249)
Total	100% (289)	101% (443)	101% (296)	101% (232)	100% (261)	100% (243)	99% (1764)
Missing:							166
Total Disposed Allegations:							1930

x²=50.49, DF=15, p<.001